[redacted]

TRANSCRIPT OF RECORD.

THE UNITED STATES OF AMERICA,
Appellant,

vs.

WILLIAM A. CLARK,
Appellee.

TESTIMONY.

VOL. I.

Pages 1 to 525, inclusive.

Upon Appeal from the United States Circuit Court for the District of Montana.

[redacted]

In the Circuit Court of the United States, Ninth Circuit, District of Montana.

UNITED STATES OF AMERICA,
Complainant,

vs.

WILLIAM A. CLARK,
Defendant.

Certificate of Master in Chancery.

To the Judges of the Above-entitled Court:

I do hereby certify that under the order of said Court, made and entered in said cause upon the first day of October, 1901, and in pursuance of a notice duly served, I commenced to take the testimony therein upon the 22d day of November, 1901, at the United States court-room in the city of Butte in said district; that George H. Macdougall and Charles B. Cooper were, by consent of the parties hereto, appointed stenographers to take the testimony of the witnesses in shorthand and transcribe the same; that Chauncey L. Griswold and Albert Jemison were called by the complainant as witnesses, and appeared personally before me and were duly sworn to testify to the truth, the whole truth and nothing but the truth; that said Griswold and Jemison were examined and cross-examined by counsel for the parties, and that their testimony is contained in this volume, No. 1, pages 1 to 579, inclusive; that said Griswold and Jemi-

son respectively read and corrected and subscribed their testimony and verified the same before me at the times hereinafter mentioned.

Exhibits for the complainant are numbered "A," "B," "C" and "D," and also consecutively from 1 to 76, inclusive, are herewith filed. Exhibit for the defendant, marked "E," is herewith filed.

HENRY N. BLAKE,
Standing Master in Chancery and Examiner.

Dated this 31st day of January, 1902.

In the Circuit Court of the United States, Ninth Circuit, District of Montana.

UNITED STATES OF AMERICA, Complainant,
vs.
WILLIAM A. CLARK, Defendant.
No. 157.

Stipulation and Order as to Taking Testimony.

The evidence hereinafter reported was taken before Henry N. Blake, the Examiner, in pursuance of the following order of said Court, and stipulation of Counsel for the parties, to wit:

[Title of Court and Cause.]

It is hereby ordered by the Court that the above-entitled action be, and the same is hereby referred to Hon. Henry N. Blake, Examiner in Chancery, to take the testimony in said cause and report the same to this Court,

such testimony to be taken by stenographic report and thereafter to be written out, signed and sworn to by each of the witnesses respectively, except where otherwise stipulated in the record herein, said Examiner to have no authority to report upon the facts herein.

It is further ordered that complainant may commence to take his testimony at any time hereafter, upon giving three days' notice to either counsel of defendant; and complainant shall have ninety days from the date hereof within which to take its testimony in chief.

It is further ordered that the defendant may have sixty days from the close of complainant's testimony in chief within which to take his testimony, and that the complainant may have twenty days thereafter within which to take its testimony in rebuttal.

It is further ordered that the testimony in said cause shall be taken in the city of Butte, in said District, at some place to be designated by the Examiner. That the testimony of any witness residing or being without the State of Montana may be taken by deposition at any time before the close of the testimony in chief of the party by whom they may be called, such deposition to be filed with the clerk of this court.

It is further ordered that either party may have the right of adjournment, whenever the witnesses for either party are unable to attend, or for other good reason shown.

Dated October 1st, 1901.

HIRAM KNOWLES,
United States District Judge.

It is hereby stipulated and agreed by and between counsel for the respective parties herein, that the above order may be made by the Court, and entered of record herein, special reasons existing why Equity Rule No. 69 should not be strictly adhered to.

P. P. KNOX,

Attorney General of the United States, Solicitor for Complainant.

FRED A. MAYNARD,

Special Assistant United States Attorney, of Counsel.

W. M. BICKFORD, and

T. J. WALSH,

Solicitors for Defendant.

Said Examiner, with the consent of the parties and after written notice thereof, designated the United States courtroom in said city of Butte as the place for the taking of the testimony in said cause.

Thereupon the hearing, after having adjourned from the 15th day of November, A. D. 1901, with the consent of the parties, was commenced upon the 22d day of November, A. D. 1901, at 10 o'clock A. M.

Frederick A. Maynard, Esq., Special Assistant United States Attorney, appeared as solicitor for the complainant. Messrs. W. M. Bickford and T. J. Walsh appeared as solicitors for the defendant.

It was then ordered, with the consent of counsel for the parties, that Charles H. Cooper and George H. Macdougall be appointed stenographers to take the testimony of the witnesses in shorthand and thereafter transcribe the same.

(Testimony of Chauncey L. Griswold.)

It is further ordered, with the consent of counsel, that said United States courtroom in said city of Butte be designated the place for the taking of the testimony in said cause.

Testimony.

Whereupon CHAUNCEY L. GRISWOLD, called by the complainant, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Mr. Griswold, where do you live?

A. I live in Missoula at this time.

Q. Are you a married man? A. I am.

Q. How long have you been married?

A. Since 1873.

Q. How long have you lived in Montana?

A. I think it is about nine years.

Q. Where did you live just prior to your coming to the State of Montana?

A. I lived in Wisconsin, at Chippewa Falls.

Q. How long have you lived in the State of Wisconsin before coming here?

A. I think I lived in Wisconsin about ten years.

Q. What was your business during the ten years that you lived in Wisconsin?

A. I followed the timber and lumber business exclusively.

(Testimony of Chauncey L. Griswold.)

Q. Please explain what the character of that business was.

A. Well, it was looking up standing timber in the woods, cutting and removing the same from the stump and putting it into the Chippewa River, as well as two years of my time spent in manufacturing lumber at a sawmill in that same county.

Q. In what part of the State of Wisconsin is Chippewa Falls?

A. I have an idea it is in the central part of the State.

Q. State as to whether or not at that time, at the beginning of your residence in Wisconsin, there were large bodies of pine in the State of Wisconsin?

A. There was, yes, sir.

Q. As I understand it, then, it was your profession, judging of the value and quantity of pine timber, pine trees? A. Yes, sir.

Q. For what purpose did you come to Montana?

A. Well, the principal reason that I came to Montana was for my health. My health failed in Wisconsin, and I had to come to Montana or some higher climate. Also to better my condition, as timber was very high in Wisconsin, and I understood there was lots of cheap timber in Montana.

Q. Did you continue your business after coming to Montana?

A. In timber, you mean?

(Testimony of Chauncey L. Griswold.)

Q. In the timber business?

A. Yes, sir, I did.

Q. Where did you first locate?

A. Well, I lived in Helena, for, I think, about two years.

Q. Then where did you go?

A. I went to Clearwater, Montana, Deer Lodge County, and lived there until about two years ago, when I removed to Missoula.

Q. Were there large bodies of standing pine in and about Clearwater?

A. There was, yes, sir, and is yet.

Q. State if you know Mr. Robert M. Cobban.

A. I do.

Q. When did you first make his acquaintance?

A. Well, I think it was in May of 1899; it may have been the latter part of April, I would not be sure about that, but it was along about there, in April or May, 1899.

Q. Where was he then living?

A. I think he was living at Missoula; I am not positive of that, but I believe that he was; that was my understanding of it.

Q. And you had never met him before that time?

A. I believe not; I have no recollection of it.

Q. Where was it that you first saw him?

A. At Clearwater.

Q. Where you were then living?

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. Did you then and there have a conversation with him relative to doing work for him?

A. To the best of my recollection I did. I think the first time I ever saw him I went and showed him some timber.

Mr. BICKFORD.—That statement is objected to as not responsive to the question.

Q. I wish you would state in your own way, Mr. Griswold, just what took place between you and Mr. Cobban the first time that you saw him, and had any business with him up at Clearwater.

Mr. WALSH.—We object to that, on the ground that the same is irrelevant, incompetent and immaterial, and that the declarations of the party, Cobban, or any conversations had between him and this witness concerning any of the matters alleged in the bill, are not proper evidence against the defendant, William A. Clark, and that the same is hearsay.

A. He told me that he desired to get quite a quantity of timber in that vicinity. I went with him and showed him one or two claims at that time, which he subsequently bought.

Q. How long were you with him at that first meeting?

A. Well, it was a good portion of the day. He came there to my place before dinner, and he did not leave till evening, to the best of my recollection, if he did

(Testimony of Chauncey L. Griswold.)

leave in the evening. I think he left in the evening of that same day.

Q. Did he have a letter of introduction to you, or how did he make himself known to you, Mr. Griswold?

A. No, he had no letter of introduction. He came there with a man that I was acquainted with, a Mr. Morris, and I believe Mr. Morris introduced him to me.

Q. What Mr. Morris' first name?

A. David.

Q. Where is he living now?

A. His home is at Camas Prairie, at Potomac, about twenty-five miles from Missoula, up the Blackfoot.

Q. And he came there with Mr. Morris?

A. Yes, sir.

Q. And did you go with Mr. Morris—did Mr. Morris accompany you and Mr. Cobban? A. He did.

Q. How far were the land descriptions from your home?

A. I should think they were about six miles distant or in that neighborhood; I would not be positive as to the number of miles, but it was about that.

Q. What were the descriptions, if you know?

A. There was one piece in section 8, fifteen north and fourteen west; also another piece in section 14, in fifteen—fifteen; that we did not go onto.

Q. How large an acreage was in these descriptions?

A. There was one hundred and sixty acres each.

(Testimony of Chauncey L. Griswold.)

Q. Was there pine growing on the descriptions, on the land?

Mr. BICKFORD.—We object to that because it is leading.

Mr. WALSH.—We also object on the ground that it does not appear that any of this land, concerning which the witness is now testifying, is in controversy in this action at all.

Mr. MAYNARD.—I have not got to that yet.

The EXAMINER.—The objection will be entered and saved, and the witness may answer the question.

A. Yes, sir.

Q. You say that Mr. Cobban left your place that evening or the next day? A. Well, yes, sir.

Q. State as to whether or not you saw him soon afterward? A. I did.

Q. Whereabouts? A. At Clearwater.

Q. How long after the first meeting?

A. Well, I couldn't say as to the number of days. I know that I did see him on the 22d day of May.

Q. 1899? A. Yes, sir.

A. At Clearwater? A. Yes, sir.

Q. Did you have any business with him on that day?

A. I did.

Q. State what that business was.

Mr. WALSH.—To this, if the Court please, we object on the same ground urged against the question ad-

(Testimony of Chauncey L. Griswold.)

dressed to the witness a few moments ago, as to the conversation had with Mr. Cobban, namely, that the business transactions between these parties are matters that are irrelevant and incompetent and immaterial in this action against the defendant, W. A. Clark, and that testimony concerning the matter, as against him, is hearsay.

Q. State what that business was.

A. I entered into a contract with Mr. Cobban on that date.

Q. Between the two dates that you now have reference to, had you seen him or had any correspondence with him?

A. Well, I couldn't say as to that. I think he did write to me, and whether he came to my place between those two stated times I could not say positively, but to the best of my belief he wrote to me during the time.

Q. You have not got his letter?

A. No, sir, I have not.

Q. Who did he come with, if any one, on the 22d day of May? A. This same man, Mr. Morris.

Q. What time did he arrive at your place?

A. It was some time in the forenoon; I couldn't say exactly the hour.

Q. How long did he stay?

A. He stayed there till about—some time about the middle of the afternoon.

(Testimony of Chauncey L. Griswold.)

Q. Did he make known to you the object of his second visit to you? A. Yes, sir.

Q. What was that?

A. To enter into this contract.

Mr. BICKFORD.—We move to strike the answer out and also all testimony with regard to any contract which was either contemplated or which was entered into between the witness and R. M. Cobban, for the reason that the same is irrelevant, immaterial and not responsive to any issue in the case, and because the same is hearsay. The motion is to exclude, as well as to strike out all testimony of this nature.

Q. State if on that day and at the place that you have mentioned a certain contract was in fact made between you and Mr. Cobban and reduced to writing?

A. It was, yes, sir.

Q. State as to whether or not it was made in duplicate. A. It was.

Q. Did you retain possession of one of the contracts, one of the duplicate contracts? A. I did.

Q. And who, if you know, took the other?

A. Mr. Cobban.

Q. Examine this paper writing, if you please, and state if that be the duplicate contract which you retained, and which was made on the day that you have now referred to.

A. This is the copy of it, yes, sir.

Q. What do you mean by that?

(Testimony of Chauncey L. Griswold.)

A. This is the copy of the original.

Q. Who took the original? A. Mr. Cobban.

Q. Mr. Cobban took the original and you retained the other? A. Yes, sir.

Q. Well, we would call them both originals.

A. Well, that is what it is.

Q. You identify that as the paper?

A. Yes, sir—no, I don't identify this as the paper that Mr. Cobban wrote.

Q. I know, but as the one that you retained yourself?

A. It is a copy of the one that I retained myself.

Q. Where is the one that you retained?

A. Mr. Cobban has it, or at least he did have it the last I knew of it.

Q. Then, as a matter of fact, Mr. Cobban took the original—one of the original duplicate contracts and you retained the other, and subsequently, at a time that you may refer to hereafter, you delivered over that to him? A. I did, yes, sir.

Mr. BICKFORD.—I object to that as leading, and also because it is irrelevant and immaterial.

Q. And you retained a copy of your duplicate?

A. Yes, sir.

Mr. BICKFORD.—The same objection to that question.

The EXAMINER.—Yes. Don't answer until they get a chance to put in the objections.

(Testimony of Chauncey L. Griswold.)

Mr. MAYNARD.—I desire to offer this in evidence, if your Honor please.

The EXAMINER.—That will be marked by me.

Mr. MAYNARD.—I desire to say, if your Honor please, that we have not made a formal written demand on counsel on the other side to produce the original contract, but we make the demand now, and ask them to produce the original contract which the witness, Mr. Griswold, has now referred to, and we hand to counsel now and deliver to them for inspection the paper writing which the witness claims to be a true and exact copy of said contract, and in the event of counsel refusing to deliver the original contract, we desire then to offer in evidence this copy.

The EXAMINER.—This contract or paper will be designated Complainant's Exhibit "A."

Mr. BICKFORD.—Well, if your Honor please, if it is offered, as I understand it—

Mr. MAYNARD.—It is offered tentatively and in the event of the refusal of counsel to produce the original.

Mr. WALSH.—We want to make a comparison before interposing any objection which we may have.

The EXAMINER.—That will be all right.

Mr. BICKFORD.—Our objection, if your Honor please, at this time is that the offer of this paper is an offer of secondary evidence.

(Testimony of Chauncey L. Griswold.)

Mr. MAYNARD.—We don't offer it now.

The EXAMINER.—Wait a minute. Your position has been stated by the stenographer, and Mr. Bickford will now state his position, and then, if you see fit, you can restate yours.

Mr. MAYNARD.—Very well. I don't want any misapprehension. There is no use making an objection based on a fact that does not exist.

Mr. BICKFORD.— —and a proper foundation has not been laid for the introduction of secondary evidence. Second, that the necessary notice has not been given to the defendant in this case to produce the original writing as described by the witness, and it has not been shown that the defendant in this case is in possession of the original writing, nor has it been shown by proper, or any testimony that the defendant in this case has access to or control over the contract. Third, that the writing offered in evidence is irrelevant and immaterial, not being a writing between the defendant in this case and any person, and he not being bound thereby nor connected therewith; that the same is irrelevant, incompetent and immaterial, and is not responsive to any issue in the case, nor does it prove or tend to prove or disprove any issue in the case.

Mr. MAYNARD.—I will say, if your Honor please, that of course we admit that the technical proof has not been made and the technical steps have not been taken

(Testimony of Chauncey L. Griswold.)

to authorize us at the present time to introduce this paper writing in evidence, and I will withdraw the offer for the present, if counsel desire to insist upon the technical point of making a formal written demand upon them for the production of the original. I had presumed that, if there was no question about the accuracy of the copy, that counsel might be willing to waive the technicality. We will make the demand and so on later.

Q. Mr. Griswold, you say that a contract was made between you and Mr. Cobban on the 22d of May, 1899?

A. Yes, sir.

Q. State what you did after the making of that contract.

Mr. BICKFORD.—We object, if your Honor please, for the reason that the testimony sought to be adduced would be irrelevant and immaterial, and because it would not prove or tend to prove any issue in this case.

A. I went on and performed my part of the contract.

Q. How long did you work under and in pursuance of the terms of said contract?

Mr. BICKFORD.—The same objection as to the last question.

A. Well, to the best of my recollection, some time along until the fore part of 1901.

Q. Fix the date as near as you can in 1901.

A. Can I explain something that I want to? I don't understand this question thoroughly.

(Testimony of Chauncey L. Griswold.)

The EXAMINER.—Read the question. (Question read.)

A. Well, I don't think I done anything in 1901 under the contract; it was in the fall of 1900, I think, was the last work I done under the contract; that is to the best of my recollection; I should say during the month of September.

Q. What was the first thing that you did after making and entering into the contract?

A. I began selecting lands.

Q. State, for our information, just what the modus operandi was; what do you mean by that, selecting lands; just tell the stenographer there.

A. I got plats of the several townships from the United States Land Offices at Helena and Missoula showing the vacant lands subject to entry under the Timber and Stone Act, and examined those townships and reported to Mr. Cobban the desirable pieces that were embraced in the several different townships in the counties of Missoula and Deer Lodge at that time, now Powell County.

Q. How many of those different descriptions containing desirable timber under the Stone and Timber Act did you report to Mr. Cobban in your best judgment?

Mr. WALSH.—Just a moment. I want to ask the witness a question first.

(Testimony of Chauncey L. Griswold.)

(By Mr. WALSH.)

Q. Was that report in writing or oral?

A. It was generally in writing.

Mr. WALSH.—We object to it on the ground that the written report is the best evidence.

(By Mr. MAYNARD.)

Q. You say it was generally in writing?

A. Yes, sir.

Q. What kind of writing, letters?

A. No, I would just write on a little slip, giving Mr. Cobban the number of the several descriptions in each section. Sometimes I would give it to parties there, and they would take it to Mr. Cobban—

Q. What?

A. Sometimes I would give the description of the land to different parties there, and they would take it to Mr. Cobban, and sometimes I would send Mr. Cobban the list comprising this land.

Q. Did you keep copies of those written communications or those slips of paper?

A. No, sir, I didn't keep copies of them.

Q. You sent them to Mr. Cobban, either directly through the mail or by other persons?

A. Yes, or gave them to him orally, I would not say.

Q. Or gave them to him in person?

A. Yes, sir.

Q. How many of those different descriptions did

(Testimony of Chauncey L. Griswold.)

you report to Mr. Cobban in these different ways, in your best judgment?

Mr. BICKFORD.—We submit that the witness should answer if he knows. It is not a matter of the best judgment of the witness; he is not testifying as an expert, and we object for the reason that, the witness not testifying as an expert, his judgment upon these matters would not be proper testimony.

Mr. MAYNARD.—I simply ask for the recollection of the witness as to the number of descriptions that he reported to Mr. Cobban.

Mr. WALSH.—We object to that on the same ground, that the written reports are the best evidence of their contents.

(Question read.)

Mr. MAYNARD.—In your best recollection, I will substitute.

The EXAMINER.—Well, you have already explained.

A. Well, I couldn't say. I have a record of it, I believe, or nearly all of them.

Q. You have a record, you say?

A. Yes, sir.

Q. Have you that record here? A. I think so.

Q. Where is that?

A. It is here. (Producing papers.) Shall I count these written descriptions here?

(Testimony of Chauncey L. Griswold.)

The EXAMINER.—Well, you can answer the question any way you deem proper.

Mr. WALSH.—I would like to have the record show that, before answering the question, the witness consults memoranda which he appears to have in his possession.

The EXAMINER.—Yes, the stenographer takes down everything.

Mr. WALSH.—Takes down that I ask that it may so appear?

The EXAMINER.—Yes. The stenographer is always instructed to take down every remark of counsel in the hearing.

Mr. WALSH.—I have no doubt that he has my remark, but there is nothing that will apprise the Court that he does, as a fact, unless the Court will instruct the stenographer to note that fact.

The EXAMINER.—Well, counsel may hereafter ask for the memorandum from which he refreshed his memory, etc.

Q. What papers have you now in your possession, Mr. Griswold, before you?

A. I have a map of a portion of the claims that I located personally, and also claims that was located by men that was in my employ, under this contract.

Q. Those are the descriptions of the lands and the persons that you located on those lands under and in

(Testimony of Chauncey L. Griswold.)

pursuance to the contract with Mr. Cobban, as I understand it?

Mr. WALSH.—Objected to on the ground that it is leading.

A. Yes, sir, it is.

Q. I wish that you would read, so that we may get it into the record, the descriptions and the persons.

A. Of what I located personally, or what was located by my men?

Q. That you located personally and those that were located by your men whom you engaged for that purpose.

Mr. WALSH.—Before the witness answers the question, I desire to interrogate him concerning the memoranda.

The EXAMINER.—Yes, that is proper.

(By Mr. WALSH.)

Q. What is that paper that you have in your hand, Mr. Griswold?

A. It explains itself up here.

Mr. WALSH.—We ask that this paper be marked.

The EXAMINER.—Well, that will be marked for identification Complainant's Exhibit "B." I will state for the information of Counsel that certain papers I have the stenographer's copy at length in the record, and at the same time mark the originals and keep those also, and there are others that we simply file away and keep

(Testimony of Chauncey L. Griswold.)

them, and do not copy them in the record unless requested by Counsel.

(By Mr. WALSH.)

Q. Mr. Griswold, did you do the typewriting work on this paper, Complainant's Exhibit "B"?

A. No, sir.

Q. Who did do it? A. I couldn't say.

Q. You don't know? A. No, sir, I don't know.

Q. Where did you get this list?

A. I got it from Mr. Sparks in Missoula.

Q. When did you get it from him?

A. Last spring.

Q. You don't know where he got it?

A. I do not.

Q. And when was it that you examined the lands concerning which you have just been interrogated by Counsel?

A. Well, it was after the 22d day of May, 1899, up till some time about the first of the year 1900.

Q. And this paper, marked Exhibit "B," did not come into your possession until the spring of the present year, 1901? A. Not in that shape, no, sir.

Q. And then you got it from Mr. Sparks?

A. Yes, sir.

Q. And you don't know who did prepare it?

A. I do not.

Mr. WALSH.—We object to the witness testifying, if the Court please, from the memorandum, Exhibit "B,"

(Testimony of Chauncey L. Griswold.)

or refreshing his recollection from the instrument, on the ground that the same was not prepared by him, or by any one under his direction or supervision, and was not prepared at or about the time concerning which the witness purports to testify.

(By Mr. MAYNARD.)

Q. Now, Mr. Griswold, will you be kind enough to read the first name and the first description, and go on from the beginning.

Mr. WALSH.—To this we object, because that would be, in effect, introducing the paper in evidence, and the same is immaterial, irrelevant and incompetent, is hearsay, and is not such a paper as the witness may refresh his recollection from, not having been made at or about the time that the matters therein detailed or purporting to be detailed occurred, nor having been made by the witness or by any one under his direction, and he not having testified that, seeing the matters in the paper, the same he knows to be true.

Q. Read first the descriptions of the land that you yourself located and the persons who made the locations, who made the entry on that particular description under your personal direction.

A. Well, the first selections that I made are not contained in this list. I can give you the names and sections, township and range, but I couldn't give you the exact descriptions without looking further into my records.

(Testimony of Chauncey L. Griswold.)

Q. Well, you can look further into your records afterwards, but just carry this through first.

A. There was the south half of the southeast quarter, northwest quarter of the southeast quarter, northeast quarter of the southwest quarter section six, township fourteen north, range thirteen west. West half of the northeast quarter—do you want the names?

Q. Yes, read first the description and then the name of the person who made the entry and the location of that particular description.

A. Well, this first one is Hiram Dodd. Next was the west half of the northeast quarter, southeast quarter of the northwest quarter and lot two of section eighteen, fourteen-thirteen, Matilda Dodd. East half of the northeast quarter, north half of the southeast quarter, section eighteen, fourteen-thirteen, Harrison Dodd.

Lots five, six and seven, southeast quarter of the southwest quarter of section six, fourteen-thirteen, is Lizzie Dodd.

Northwest quarter of eight, fourteen-thirteen, is Edward Dodd.

Lot three and four east half of the southwest quarter of eighteen, fourteen-thirteen, is Cora Dodd.

Marion Watson, northwest quarter of twelve, fourteen-fourteen.

T. H. McConnell, north half of the northwest quarter, southeast quarter of the northwest quarter, southwest

(Testimony of Chauncey L. Griswold.)

quarter of the northeast quarter, twenty-four, fourteen-fourteen.

C. B. Sperry, north half of the southeast quarter, northeast quarter of the southwest quarter, southeast quarter of the northeast quarter, twenty-four, township fourteen north, range fourteen west.

Harriet Watson, north half of the southeast quarter, northeast quarter of the southwest quarter, southeast quarter of the northwest quarter, section twelve, township fourteen north, range fourteen west.

D. E. Watson, west half of the southwest quarter, northeast quarter of the southwest quarter, southwest quarter of the northwest quarter, section two, township fifteen north, range fourteen west.

Albert Jameson, southwest quarter of ten, township fourteen north, range fifteen west.

Lelia T. Bryan, northwest quarter of section twenty-four, township fifteen north, range fourteen west.

John B. Catlin, lots four, five, six and seven in section six, fifteen-fourteen.

Leon Barrett, lots two and three, southeast quarter of the northwest quarter, northeast quarter of the southwest quarter, section six, fifteen-fourteen.

Belle Bryan, west half of the southeast quarter, southwest quarter of the northeast quarter, northeast quarter of the southwest quarter, section six, fifteen-fourteen.

(Testimony of Chauncey L. Griswold.)

Edgar Lehman, lot one, southeast quarter of the northeast quarter, east half of the southeast quarter, section six, fifteen-fourteen.

H. C. Dorman, south half of the northeast quarter, lots two and three, section four, fifteen north, range fourteen west.

Lizzie Wells, west half of the southeast quarter, east half of the southwest quarter, section eight, fourteen-thirteen.

M. E. Wright, south half of the southwest quarter, northeast quarter of the southwest quarter, lot four, section twelve, township fifteen north, range fifteen west.

L. T. Catlin, northwest quarter of section twelve, township fifteen north, range fifteen west.

There was also, which I have got to give you from my recollection, John Gillis and Charles Cloutier, lands in section twelve, fourteen north and thirteen west; B. Frank Chattin and Thomas Felke, lands in section ten, fourteen-thirteen; that is all that I remember of that I located personally.

Mr. BICKFORD.—We move to strike out the testimony of the witness with reference to Charles Cloutier, John Gillis, Thomas Felke and Frank Chattin, for the reason that he has not identified the lands with any of the lands mentioned or in controversy in this case, and for that reason that the testimony is irrelevant and immaterial.

(Testimony of Chauncey L. Griswold.)

(By. Mr. MAYNARD.)

Q. Have you in your hands a printed copy of the bill of complaint in this case? A. I have, yes, sir.

Q. Now, I wish you would turn to that page of the bill wherein the claim of Hiram Dodd appears; that is the first one that you name.

A. On page 24.

Q. Page 24 of the printed bill?

A. Yes, sir.

Q. Now, I desire to call your attention to the facts and circumstances connected with your meeting Hiram Dodd and making the location of the description that you have already sworn to. Will you please say who this Hiram Dodd is.

A. He is a man that lives about seven or eight miles above Bonner, on the Blackfoot river.

Q. Who is Matilda Dodd?

A. Well, sir, I don't know personally; she lives there with her people.

Q. Is she a daughter—you understand that she is a daughter of Hiram Dodd?

A. No, sir, I understand—

Mr. BICKFORD.—We object to that as leading.

Q. What do you say— Who is Harrison Dodd?

A. He is a brother of Hiram Dodd, and lives at the same place.

Q. Who is Lizzie Dodd?

A. Lizzie Dodd is the wife of Harrison.

Q. And who is Edward Dodd?

(Testimony of Chauncey L. Griswold.)

A. Edward Dodd is a brother.

Q. And who is Cora Dodd?

A. She is the wife of Edward Dodd.

Q. And you understand that Hiram and Harrison and Edward Dodd are brothers?

A. Yes, sir.

Q. And that they all live at the same place?

A. Yes, sir, or right in the immediate vicinity there.

Q. And Cora Dodd is the wife of Edward, and Lizzie Dodd is who?

A. She is the wife of Harrison.

Q. And Matilda is the wife of Hiram?

A. I think Matilda Dodd is the mother.

Q. What is Hiram Dodd's business; what does he do for a living?

A. Well, I couldn't tell you; he works in the woods principally, and around home there and in the timber; he is a laboring man.

Q. And works in the woods as a common laborer?

A. Yes, sir.

Q. When and where did you first see him in regard to this matter?

A. The first time I ever saw him any time he came to my place at Clearwater with his cousin, Mr. Marion Watson.

Q. When was that?

A. It was in the month of June, I believe, in 1899.

Q. That was the first you ever saw him?

A. To know him, yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. He came with Watson? A. Yes, sir.

Q. For what purpose, if you know, did he come to your place?

A. He came there to see about getting one of these different claims that we have been talking about; that was his purpose.

Q. What did you next do—he came to see you about getting a claim? A. Yes, sir.

Q. And what was next done?

A. I went with him in the woods and selected a claim.

Q. Whereabouts in the woods was the claim that you did in fact select for Mr. Dodd?

A. This is Harrison Dodd, is it?

Q. Hiram Dodd.

A. Well, it was the south half of the southeast quarter and the northwest quarter of the southeast quarter and the northeast quarter of the southwest quarter of section six, township fourteen north, range thirteen west.

Mr. WALSH.—I would like to have the record show that, in answer to this question, the witness reads from Complainant's Exhibit "B," and to this we object on the same ground urged heretofore against the witness testifying from the memorandum, Exhibit "B."

Q. Do I understand from what you have already testified that you went with Mr. Dodd yourself to this particular description? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. How far is this particular description from your home?

A. Well, it is about in the neighborhood of three miles.

Q. Three miles from your home? A. Yes, sir.

Q. Who went with you and Mr. Dodd?

A. Well, there was, I think, two other Mr. Dodds, Edward and Allen, and Mr. Watson.

Q. Did these four men come to your place together?

A. No, sir, I believe not.

Q. Did you go with Mr. Dodd on the occasion of his first coming to your house?

A. No, sir, I went the next day, and met him at Mr. Watson's about in the neighborhood of two miles above my place.

Q. Then, as I understand you, Mr. Dodd came to your house on one day upon the mission that you have already testified to? A. Yes, sir.

Q. And the next day, in pursuance of the agreement and talk that you had on the preceding day, you went with him to this particular description?

A. Yes, sir.

Q. And you were accompanied by the other two Mr. Dodds and Mr. Watson? A. Yes, sir.

Q. You know of your own knowledge, then, of this particular description of land? A. Yes, sir.

Q. What time did you leave your home with these Dodds to go to this particular description?

(Testimony of Chauncey L. Griswold.)

A. I left my home in the morning, between seven and eight o'clock, I should suppose, and rode two miles on horseback to where Mr. Watson lived, and we crossed the river and went up on the mountain and was gone all day.

Q. State to the Court, if you please, so that the stenographer can take it down, step by step what you did on that particular day with reference to this particular description of land and this particular Hiram Dodd, just what you did on that day, not from any memorandum, but just from your own knowledge and recollection.

A. Well, sir, we left Mr. Watson's house, or his home, crossed the river, the Blackfoot River, and climbed a mountain and found a section corner, ran the line to this land, and stepped it out, paced it off so as to get the distances.

Q. Proceed.

A. That was all there was with that particular claim; that was all I had to do with that particular claim.

Q. That was the particular claim of Hiram Dodd's?

A. Yes, sir.

Q. Have you a personal knowledge, irrespective of any memorandum, of this description?

A. I have.

Mr. WALSH.—We object to that as leading.

Q. You have? A. Yes, sir.

Q. And it is the description which you have given to the stenographer? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—That is objected to for the same reason.

Q. It is, you say? A. Yes, sir.

Q. Did you make any other locations on that particular day? A. I did.

Q. What descriptions or locations were made by you on that day?

Mr. BICKFORD.—Before the question is answered, if your Honor please, we desire now to move to strike out from the record all of the testimony which has been given by this witness with reference to the genealogy of the Dodd family, and particularly with reference to the location of this claim, for the reason that the same is irrelevant and immaterial, and does not prove or tend to prove any issue in this case.

Q. What descriptions or locations were made by you on that day, other than the one that you now have testified of—any of these other Dodds?

A. Yes, sir, and Mr. Wells, Lizzie Wells.

Q. Well, let us keep our minds fixed upon the Dodd family first; what other locations were made for the Dodds in addition to the Hiram Dodd location?

A. Well, I believe that Allen and Harrison located in there.

Q. Harrison and what?

A. Harrison and Allen Dodd—no, Harrison and Hiram and Edward Dodd.

Q. Edward and Harrison in addition to Hiram?

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. Were they along with Hiram on this day?

A. Yes, sir, I believe they were; to the best of my recollection they were with us.

Q. I wish that you would just refer to the matter as closely as you can, and see whether you have a distinct recollection as to that fact or not?

A. Well, I couldn't be positive. I know that one of them was with us, and which one I couldn't say.

Q. Now, with reference to Mr. Hiram Dodd. After you did what you have testified, what next did you do in connection with this Hiram Dodd claim or location?

A. I wrote him a description of the land and named his witnesses and sent him to Mr. Cobban in Missoula.

Mr. WALSH.—To that portion of the testimony of the witness in answer to this last question, in which he says he wrote him a description of the land, we move that it be stricken out on the ground that the writing itself is the best evidence of what was therein contained.

Q. What was the character of that writing, Mr. Griswold, just the brief outline of the description, or what was it?

A. Yes, sir.

Mr. WALSH.—Objected to as leading.

Q. What was it?

A. It was writing as brief as possible with a pencil on a little slip of paper.

Q. As the result of your own measurements, you made the minute of it on this slip of paper, and gave it to Mr. Dodd? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. And with the names of his witnesses?

A. Yes, sir.

Mr. WALSH.—Objected to as leading.

Q. How many witnesses were there?

A. Four.

Q. Do you remember the names of those witnesses?

Mr. WALSH.—Objected to on the ground that the memorandum is the best evidence of who was named in the memorandum as witnesses.

A. I don't remember the witnesses.

Q. Were they with you on that day?

A. Yes, sir.

Q. But you don't remember their names?

A. I couldn't remember. They were up in there several times, the Dodds were, and they had different witnesses. I put on the witnesses that they wanted.

Q. You put on the names of the witnesses they wanted?

A. Yes, sir. There would three or four make final proof at the same time, and one could be witness for the other.

Q. Do you remember what time in the day it was that you came to this land that Mr. Hiram Dodd afterwards located? A. It was about midday.

Q. How long were you on the ground, to your best judgment? A. Oh, I should say an hour.

Q. You did during that hour what you have now testified to? A. Yes, sir.

Q. What did Mr. Dodd do?

(Testimony of Chauncey L. Griswold.)

A. He accompanied me all the time; he was right with me all the time.

Q. Right with you during that hour?

A. Yes, sir.

Mr. WALSH.—Now, if the Court please, to all of this testimony concerning the particular things that were done on the ground, or the length of time they were on the ground, we object, and move that the same be stricken out, because the same is irrelevant and immaterial and incompetent, no question being raised by the bill of complaint as to the regularity of any acts resulting in the issuance of patent to any person, except so far as it is averred that the entries were made under an agreement to convey the same; and for the further reason that there is no issue raised by the pleadings to which this evidence is in anyway material.

Q. Where did you and Mr. Dodd go after leaving this land? A. We went up to section eight.

Q. Went on to section eight? A. Yes, sir.

Q. In the same township? A. Yes, sir.

Q. Just give the particular and exact description that you now refer to that you went on in section eight.

A. I will have to refer to my minutes.

Q. That is all right.

Mr. WALSH.—We will have to have it noted now, if the Court please, that the witness again reads from memorandum, Exhibit "B."

Q. Just give that description, please.

(Testimony of Chauncey L. Griswold.)

A. We went onto the east-half of the northeast quarter and the east-half of the southeast quarter—I made a mistake there; just erase that description. The west half of the southeast quarter and the east-half of the southwest quarter of section eight, township fourteen north, range thirteen west.

Q. What time did you get there?

A. I should presume about one o'clock, or half-past one.

Q. Who was with you?

A. The two Mr. Dodds and Mr. Watson.

Q. What did you do there?

A. I ran a mile south through the section.

Q. Go on and state just what you did, step by step.

A. And looked it over, looked over the quarter section, a mile long and a quarter of a mile wide, and selected it.

Q. Selected that as—

A. As being a desirable piece of timber.

Q. Under the Stone and Timber Act.

A. Yes, sir.

Q. Then what did you do?

A. We went from section eight to section eighteen.

Q. What particular description was that, from that memorandum?

Mr. BICKFORD.—We will have the same memorandum made at this time, that the witness, before answering the question, refers to Exhibit "B" and refreshes his memory therefrom.

(Testimony of Chauncey L. Griswold.)

A. Well, sir, we looked over the east half of the northeast quarter, the north half of the southeast quarter, also the east half of the northeast quarter, the north half of the southeast quarter and lot two in section eighteen, township fourteen north, range thirteen west.

Q. What time did you get there?

A. To the best of my recollection it was about four o'clock.

Q. Who was with you?

A. The two Mr. Dodds and Mr. Watson.

Q. What did you do there?

A. We stepped the line out, and I examined it and noted it down for selection.

Q. As being a desirable piece of timber land under the Stone and Timber Act? A. Yes, sir.

Q. State as to whether or not there were any other locations made on that day to your own knowledge, except Hiram Dodd's.

A. My recollection it that there were. I believe that Harrison Dodd took a claim in there that day, to the best of my recollection.

Q. Harrison was with you all day? A. Yes, sir.

Q. And your best recollection is that he made a claim on that day? A. Yes, sir.

Q. To what particular description did he make a claim?

A. To the east half of the northeast quarter and the east half of the southeast quarter of section eighteen, township fourteen north, range thirteen west.

(Testimony of Chauncey L. Griswold.)

Q. Have you any recollection, any present recollection as to whether or not you gave him a slip of paper on which this description was written?

Mr. BICKFORD.—Objected to as leading.

Mr. WALSH.—And because the paper itself is the best evidence of its contents.

A. Not at that time, no, sir.

Q. Where did you part company with the Dodds on that day, if you did?

A. At Mr. Watson's home.

Q. At about what time?

A. I should suppose at about seven o'clock in the evening.

Q. Now, calling your attention again to the Hiram Dodd matter, will you please state when you next saw Hiram Dodd with reference to this timber?

A. It was possibly two or three days subsequent to that, when we were going into Missoula before going to Helena to make their filings on this land, they came down there in a wagon and stopped at my place.

Q. Who came with Hiram Dodd?

A. Mr. Edward Dodd and Cora Dodd; I believe there were five of them.

Q. Five came in a wagon and stopped at your place?

A. Yes, sir. At that time I gave them each these slips of paper, showing the description of the land, directed to Mr. Cobban.

(Testimony of Chauncey L. Griswold.)

Q. Did you go with them from your place at Clearwater to Missoula? A. No, sir.

Mr. BICKFORD.—Objected to as leading.

Q. You didn't? A. No, sir.

Q. Then, previous to this day that they all came down in a wagon on their way to Helena to make their entry, the work of selection had been made, had it not?

Mr. BICKFORD.—Objected to as leading again.

A. I had made the selections and told them where the land was, and told them what to take, and then they had to go back, probably the next day, and take these women, their wives or whatever they were, up there onto the land, and they done that, I think, the next day, and the next day after that they came to my place on their way to Missoula, and stopped and got these bits of paper.

Q. So that, as I understand you, you did not go onto the land in company with Lizzie Dodd and Cora Dodd? A. No, sir, I did not.

Q. But you had made the locations and told the Dodds where to make the locations, and then they came afterwards to your place and got the slips of paper?

A. Yes, sir.

Mr. WALSH.—We object to that because it is leading.

Q. You gave them these slips of paper when they came by in the lumber wagon at Clearwater?

A. On their way to Missoula, yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. And you did not accompany them?

A. No, sir.

Q. When did you next see them?

A. Well, I couldn't say. I couldn't say the next time that I saw them. I saw them every few days all the summer, all that entire summer, probably every week once a week, and sometimes oftener. They were back and forth all the time.

Q. But as far as what took place at the Land Office, you have no personal knowledge? A. No, sir.

Q. Now, relative to the location of—

A. Excuse me just a moment; I spoke too quick. To the best of my recollection I was a witness for Edward Dodd. Yes, I was a witness for Cora Dodd and Edward Dodd in Helena.

Mr. BICKFORD.—It would be well to have the memorandum made now, that the witness refers to a paper not identified, but in his possession, before making the foregoing answer, and then make a memorandum that we move to strike it out, for the reason that it is irrelevant and immaterial—to strike the answer out, I mean.

Q. After having refreshed your recollection from a memorandum in your possession, you now say that you were a witness for Cora Dodd and Edward Dodd?

A. Yes, sir.

Q. Where was that? A. In Helena.

Q. Have you a present recollection now as to the circumstances of your going to Helena with them?

(Testimony of Chauncey L. Griswold.)

A. No, sir, I have not. I think that I was in Helena at the time that they came over.

Q. You think you were in Helena when they were there? A. Yes, sir.

Q. Now, going back so as to cover the ground, do I understand from your testimony that you did not yourself go with these women to these locations?

A. I did not.

Q. And that how many hours elapsed after you located the descriptions that they were to make the entry on, from the time that they passed your house at Clearwater?

A. To the best of my recollection it was not to exceed forty-eight hours, two days.

Q. Did you see them when they returned?

A. From Helena?

Q. Yes.

A. Yes, sir, I saw them at different times after their return.

Q. Now, calling your attention to the M. Watson location. Do you know what page of the bill that is on? A. No, I do not.

Q. Marion B. Watson, is that the one?

A. Yes, sir.

Q. That is on page 19?

A. Marion B. Watson, yes, sir.

Q. Do you know Marion B. Watson?

A. I do, yes, sir.

Q. Is he a man or a woman?

(Testimony of Chauncey L. Griswold.)

A. It is a man.

Q. Marion is sometimes a woman's name. How long have you known Marion B. Watson?

A. Since the fall of 1898.

Q. Where does he live?

A. He lived at that time about four miles above the mouth of the Clearwater, on the Blackfoot River; his present whereabouts is unknown to me.

Q. How old a man was he?

A. I should presume he was—

Mr. BICKFORD.—Unless the witness knows, we object to his answering his presumptions; we object to the presumptions of the witness.

Q. I am calling for your best judgment as to how old a man he was.

A. Thirty-five or thirty-eight years old, or along there.

Q. Was he a single man or a married man?

A. He was a married man.

Q. Was he living there with his wife?

A. Yes, sir.

Q. What did he do for a living?

A. Well, he logged there the winter of 1898-99.

Q. Do you know how long he had lived there at the time this entry was made by him?

A. To the best of my judgment, about six months.

Q. What do you mean; he had come into the country just about six months before that time?

A. That was my first knowledge of him, yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. You never met him before?

A. No, sir. He came up there and took a little contract from the Blackfoot Milling Company, to log.

Q. And he stayed there for how long?

A. Well, he stayed there—I don't think he was there altogether for a year; to the best of my recollection he was not there a year.

Q. As I understand you from your testimony, this was the Watson that came with Hiram Dodd on the day and date that you referred to? A. Yes, sir.

Q. When did you locate him, Mr. Watson?

A. I don't know that I located Mr. Watson at all. He worked for me; he was selecting lands himself for me; I was paying him wages for doing it.

Q. You were paying him wages to assist you in the labors that you were performing under the contract that you had made with Mr. Cobban? A. Yes, sir.

Q. And he made a selection for himself, did he?

A. Yes, sir.

Q. Do you know anything about the facts and circumstances connected with that?

A. I do not, no, sir.

Q. The next person that you located was T. H. McConnell? A. Yes, sir.

Q. That is on page 23 of the printed bill. Do you know Thomas H. McConnell? A. I do.

Q. Where was he living at this time?

A. About one mile from Clearwater.

(Testimony of Chauncey L. Griswold.)

Q. How old a man was he, from your best judgment?

A. I should say he was fifty.

Q. Fifty years old? A Yes, sir.

Q. What did he do for a living?

A. Well, he was living on a little ranch there, that he rented.

Q. How long had he lived there previous to this time?

A. I think he came there in the spring of 1898, that is, the spring or early summer of 1898.

Q. Is he living there now?

A. No, sir, he is not.

Q. Do you know where he is living?

A. I think he is living at Sunset in Missoula County, or was the last time I knew of him.

Q. You say he lived in a little rented place there?

A. Yes, sir.

Q. Who was he living with?

A. His wife and family.

Q. What did he do; what was he doing at this time?

A. Well, he was trying to make a living, in indigent circumstances, or I considered him so. He was badly crippled up; he could not do much of anything.

Q. Badly crippled up and in indigent circumstances?

A. Yes, sir.

Q. When and where did you first see him with reference to his making a location?

A. He came to my place at Clearwater.

Q. When?

(Testimony of Chauncey L. Griswold.)

A. I believe in June, 1899; during the month, I couldn't name the day; he came in company with Mr. Sperry.

Q. Do you know Mr. Sperry's first name?

A. Charles B.

Q. He, too, made a location? A. Yes, sir.

Q. Did they both come to your place for that purpose? A. Yes, sir.

Q. How far was your home from theirs, where they were living, particularly Mr. McConnell's?

A. It was about one mile.

Q. About a mile? A. Yes, sir.

Q. What took place there? A. Well—

Mr. BICKFORD.—We interpose an objection that it is irrelevant and immaterial.

Mr. MAYNARD.—I suppose that you could have the benefit of a continuing objection to that.

Mr. WALSH.—If it can be so understood. The same objection may be considered as made to all of the testimony of this character, against each of the entries alleged to have been made.

Mr. MAYNARD.—So far as the specific objection, that it is irrelevant and immaterial.

Mr. BICKFORD.—If you are willing to have it go under that understanding.

Mr. MAYNARD.—One objection will be just as good.

(Testimony of Chauncey L. Griswold.)

Whereupon further hearing was continued until 2 o'clock of this day.

2 P. M.

Direct examination of Mr. Griswold resumed.

(By Mr. MAYNARD.)

Q. I was asking you, Mr. Witness, in regard to Thomas H. McConnell at the time that we took the recess. Now, I think that you told us who he was, and it is on page 23 of the bill.

A. Yes, sir, and where he lived.

Q. State whether or not he, too, came to your home to see about making a location. A. He did.

Q. When was that?

A. To the best of my recollection it was in the fore part of June, 1899.

Q. Who did he come with?

A. Mr. Charles B. Sperry.

Q. I think you testified to that.

A. Yes, sir, I believe I did, too.

Q. Now, state in your own way, what you did when Mr. McConnell came to your house with Mr. Sperry?

A. Well, they said they wanted claims, and I told them where I thought they could go and find them, and they went and measured them out the best they could themselves, and wasn't satisfied, and came back to me and wanted me to go with them, and I think the third day I went with them and selected two claims for them to take.

Q. Who were with you at the time?

(Testimony of Chauncey L. Griswold.)

A. Mr. Sperry and Mr. McConnell was the only ones.

Q. You three? A. Just us three, yes, sir.

Q. Where did you start from?

A. From my place at the Clearwater.

Q. What time in the day?

A. I think we started about nine o'clock.

Q. Where did you go?

A. We went up over the mountain through section fourteen, and took the line and ran it through on fourteen.

Q. Give the particular description.

A. I can't do it without my map; it is in my coat there.

Mr. BICKFORD.—Will your Honor allow me to interrogate the witness concerning this map?

The EXAMINER.—Yes, sir.

(By Mr. BICKFORD.)

Q. What map is this that you have here, Mr. Griswold?

A. It is my personal property, sir, made from actual observation on the Blackfoot River.

Q. Who made it? A. I did.

Q. When was it made?

A. In 1895, to the best of my recollection.

Q. Are you a civil engineer or a surveyor by profession? A. No, sir.

Q. Was this map made from measurements that you yourself took? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. You measured, then, the courses and distances on this map?

A. It is made principally from the United States survey.

Q. Then you never measured the distances yourself by means of a tapeline or in any other way, did you?

A. Not in all cases, no, sir; some I have.

Q. And others you have not? A. Yes, sir.

Q. You are not prepared to say that this map would correspond in every instance with the United States survey?

A. I am in most instances, yes, sir.

Q. And this map that you have here in your possession now, and to which you refer, is one that was made by yourself? A. Yes, sir.

Q. Have you ever had any experience in map making? A. Well, some, yes, sir.

Q. Not as a surveyor or as an engineer, have you?

A. No, sir, but in my connection with the State I have had to make a great many plats and maps—with the State Land Department.

Q. And you say that this is a map that was made by yourself? A. Yes, sir.

(By Mr. MAYNARD.)

Q. Can you give it now? A. Yes, sir.

Q. Well, what is it?

A. We went across section fourteen to the corner of twenty-four.

(Testimony of Chauncey L. Griswold.)

Q. This is with reference to McConnell?

A. Yes, sir, McConnell and Sperry; they are both on the same section.

Q. Now, with reference to Thomas H. McConnell's entry; that is what I want? A. Yes, sir.

Q. What is the description—page 23?

Mr. BICKFORD.—If the witness is testifying from his own knowledge of the land, we should object to his refreshing his memory by reference to the complaint in the case, for the reason that it would appear to be endeavoring to have the pleadings in the case lead the witness. If the witness is not testifying concerning his own knowledge, he should so state at the time when he gives his testimony.

Q. Are you able to give a description of the land that you located for Mr. McConnell?

A. Not without the minutes that I have in my possession.

Q. I mean aided and refreshed by the minutes which you have in your possession, are you able positively to state the particular description? A. I am.

Q. Please name it.

Mr. BICKFORD.—We object to the witness reading from the printed complaint, now in his hand and in his possession, and from which he appears to be reading, because it is wholly incompetent for him to refresh his memory by reference to the pleading in the case; that if the witness purports to testify from his own knowl-

(Testimony of Chauncey L. Griswold.)

edge, it is not competent for him to refer to the pleadings in order to refresh his memory.

Mr. MAYNARD.—We understand your objection.

The EXAMINER.—Now, you can answer.

Mr. BICKFORD.—We want it noted that the witness proceeds to read from the printed complaint filed herein.

A. The north half of the northwest quarter, the southeast quarter of the northwest quarter, the southwest quarter of the northeast quarter of section twenty-four, township fourteen north, range fourteen west.

Q. State whether or not, by looking at your map which you yourself made and from the knowledge of the land which you yourself have by the personal visit that you made there, whether you are able to say that that is the exact and true description?

A. It is, sir.

Q. Please state now what you did when you went with Mr. McConnell and Mr. Sperry to this particular description of land; in other words, what did you do when you got there?

A. I followed the line to the northeast corner of the section, and followed south on that line to the quarter post, and diagonally through the section, to find these lands, and came out on the west side of the section at the quarter post.

Q. How long were you there with Mr. McConnell?

(Testimony of Chauncey L. Griswold.)

A. I presume that I was on that land between two and three hours; it was a pretty brushy country.

Q. With him? A. Yes, sir.

Q. State what you did when you finished your work there?

A. We came back over about the same route that we went in regardless of any lines; we knew the direction; for that matter we could see our own buildings, and we came down the mountain the best place that we could get. I gave Mr. McConnell a description of the land on a slip of paper, and named his witnesses, and provided him with funds to defray his expenses to Helena, to make application to purchase the land.

Mr. WALSH.—We move to strike out that portion of the testimony of the witness in which he purports to give the contents of the slip that he gave to the man, McConnell, for the reason that the same is secondary evidence and hearsay, and no foundation has been laid for the introduction of secondary evidence of the contents of the slip.

Mr. MAYNARD.—I would state now, if your Honor please, that a stenographer is making out, from my dictation, a formal demand for this primary evidence, and we will, in the absence of it, expect that this will stand as the best evidence in the case.

Mr. WALSH.—If it would be of any assistance to you, Mr. Maynard, we would be perfectly willing that the oral demand that you made this morning for the

(Testimony of Chauncey L. Griswold.)

original contract, of which the copy was referred to, should be considered as a sufficient demand made at that time, without the necessity of making a written demand.

Mr. MAYNARD.—Thank you.

Mr. WALSH.—I imagine you would prefer to have the formal demand, but if you would rather, we would not make any objection on the ground that the demand then made was not in writing; we would consider that the demand then made for that particular paper was made in writing.

Mr. MAYNARD.—That would be entirely satisfactory to us if there could also be embraced in that oral demand a demand for the production of whatever communications or slips the witness has now referred to, and sent to Mr. Cobban, be produced by him, and all the correspondence.

Mr. WALSH.—That is what we want; just exactly the extent of the demand will be possibly indefinite, you know, unless it is in writing, and I think that you had better make your demand in writing.

Mr. MAYNARD.—Very well, but let it stand as far as the production of the contract is concerned.

Mr. WALSH.—That is satisfactory.

Mr. MAYNARD.—Very well; that will be regarded the same as if a written demand has been made.

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—And that is to say, that we simply waive the necessity of a written demand as of that time.

Mr. MAYNARD.—Yes, sir.

Q. Was that all done on this day that you have referred to, that you went up there?

A. No, sir, to the best of my knowledge it was done the day subsequent.

Q. The next day? A. Yes, sir, the next day.

Q. Did he stay at your house?

A. No, sir, he stayed at his own home, and came to my place next morning on his way to Helena overland. He did not go around to Missoula and go to Helena by train, but he went overland with a team.

Q. How much money did you give Mr. McConnell?

A. Well, that I could not say.

Q. What is your best recollection?

A. Why, I think I gave him somewhere about fifteen dollars.

Q. To pay his expenses from his home to Helena?

A. Yes, sir.

Q. For the purpose of making an application?

A. Yes, sir.

Q. Preliminary application and entry of this particular description of land that you have now referred to? A. Yes, sir.

Mr. WALSH.—Objected to because it is leading.

Q. Where did you get that money from?

(Testimony of Chauncey L. Griswold.)

A. I think it was a portion of the money that Mr. Cobban left in my hands for that purpose.

Mr. WALSH.—We move to strike out the answer of the witness on the ground that it is not responsive to the question. He was not asked what he thought about the matter; the question was where he did get it.

Q. You say that you had received money from Mr. Cobban for that purpose? A. I had.

Mr. WALSH.—Objected to because it is leading, and because it assumes a fact as proven that has not yet been proven.

Q. State how much money you had previously received from Mr. Cobban for that purpose?

Mr. BICKFORD.—Objected to as leading, and as assuming a fact not yet proven.

A. Why, I think at that time Mr. Cobban had paid me about four hundred dollars.

Q. Before that time he had paid you four hundred dollars? A. Yes, sir.

Mr. WALSH.—Objected to as leading, and assuming a fact as proven which has not been proven, namely, that theretofore Mr. Cobban had paid him four hundred dollars.

Q. I understood you to say, but for the purpose of having no possible misconception with regard to it—did you say that you had been paid before this day that you have referred to with McConnell, that you had received this money?

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—Objected to as leading.

A. Mr. Cobban had deposited in my hands the money for this purpose, defraying the expenses of these certain parties that wanted to take up this land.

Q. And it was about four hundred dollars?

A. I think at that time it was about four hundred dollars.

Q. Who went overland to Helena with Mr. McConnell, if you know? A. Mr. Sperry.

Q. Now, then, I will call your attention to Mr. Sperry. Do you know Mr. C. B. Sperry?

A. I do.

Q. How long have you known him?

A. Why, I first met Mr. Sperry in the fall, or during the winter of 1898-99, while he was working for Mr. Watson.

Q. Where does Mr. Sperry live?

A. He now lives near the mouth of the Cottonwood, on the Blackfoot, or did at my last knowledge of him.

Q. Where was he living at the time that you have referred to in your testimony as coming to your house?

A. I believe his family, to the best of my knowledge, lived at a place called Canyon Ferry, out about twenty miles from Helena.

Q. What was your answer?

A. I think his family, his wife and children, lived at a place called Canyon Ferry—not Canyon Ferry, but Canyon Creek, out about twenty miles, I think it is, from Helena.

(Testimony of Chauncey L. Griswold.)

Q. Twenty miles from Helena?

A. Yes, sir, up toward Marysville.

Q. Was he living there at that time?

A. His family was, and he was working for Mr. Watson.

Q. What was he doing?

A. He was a sort of a handy man, made sleighs and go-devils, and done his blacksmith work, made cant-hook stakes and axles and such things.

Q. How old a man was he?

A. Sperry, I should say, was in the neighborhood of forty.

Q. Do you know as to whether or not he was simply a laborer? A. He was; he was a laboring man.

Q. Working for daily wages? A. Yes, sir.

Q. Did he have any land or own any land to your knowledge?

A. He didn't to my knowledge; I don't think he did own anything.

Q. You say that he came to your house with Mr. McConnell? A. He did.

Q. And he went with you up to the McConnell description, I think you stated? A. He did, yes, sir.

Q. Then what did you do with reference to his location?

A. Well, the same conditions that governed Mr. McConnell governed him.

Q. Well, I think that it would be best for you just to

(Testimony of Chauncey L. Griswold.)

go on particularly and testify as to just what you did, without reference—

A. Well, I gave him a slip of paper, showing the description.

Q. I know, but I mean about going onto the land that he located?

Mr. WALSH.—He already testified to that; he testified to both of them together.

Q. From your knowledge of the ground, from consultation, looking at your map there that you have yourself made, give us the exact description of the land that he located.

A. I could not do it from this map; I don't know.

Q. Well, aided by the description in the printed bill of complaint?

Mr. WALSH.—We object to the witness testifying or refreshing his recollection from the printed bill of complaint.

A. Well, I will take this paper (referring to Exhibit "B"). It was the north half of the southeast quarter, the northeast quarter of the southwest quarter and the southeast quarter of the northeast quarter of section twenty-four, township fourteen north, range fourteen west.

Mr. WALSH.—We move to strike out the answer of the witness for the reason that it appears he was reading from Exhibit "B" in answer to the question, and we would like to have the fact appear, if the Court please.

(Testimony of Chauncey L. Griswold.)

Q. You said that you yourself went onto this particular description of land?

Mr. WALSH.—Just a moment.

The EXAMINER.—Well, I thought he read from the printed bill.

Mr. WALSH.—No, he desisted from reading from the complaint and read from Exhibit "B."

The EXAMINER.—Oh, he did? Very well.

Q. Are you able to state, Mr. Witness, now, after having seen or consulted one of your minutes there, and from your personal knowledge of the land after having been on it, as you have now testified, that that is the exact legal description of the land that Mr. Sperry located?

Mr. WALSH.—Objected to as leading.

A. I am, yes, sir.

Q. State as to when you next saw Mr. Sperry after you went away from the land with him.

A. To the best of my recollection it was the day following.

Q. And he came back with Mr. McConnell?

A. Yes, sir, Mr. McConnell and he came together with a team, going on their way to Helena.

Q. What did you have to do with Mr. Sperry?

A. I gave him a slip of paper showing the description of the land and naming his witnesses, and furnished him money to pay his expenses over to Helena and back again.

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—We move to strike out the testimony of the witness as far as it purports to give the contents of the slip of paper, for the reason that the same is secondary evidence, no foundation having been laid for the introduction of secondary evidence, the paper itself being the best evidence.

Q. How much money did you give him, to your best knowledge? A. I think about ten dollars.

Q. About ten dollars? A. Yes, sir.

Q. State as to whether or not that belonged to the same fund that you had paid Mr. McConnell with?

Mr. WALSH.—Objected to on the ground that it is leading.

A. Yes, sir, it was a part of the money, the same fund.

Q. You say you named the witnesses?

A. Yes, sir.

Q. Who were they?

Mr. WALSH.—Objected to because the paper is the best evidence.

A. Why, Thomas McConnell as one, myself as another, and the other two I don't remember; I couldn't place them; I couldn't name them; I have forgotten. We had to have four, you know, on each application.

Q. You named the witnesses? A. Yes, sir.

Q. Have you any knowledge as to whether or not either McConnell or Sperry had seen these descriptions before the day that you went with them to that point?

(Testimony of Chauncey L. Griswold.)

A. I have not; I have no knowledge of whether they saw it or not before the day that I was with them.

Q. Have you any information as to whether or not they ever returned to that land again?

Mr. WALSH.—Objected to as immaterial, irrelevant and incompetent.

A. I have no knowledge as to whether they ever returned to the land; I don't think they did.

Mr. WALSH.—We move to strike out the testimony of the witness in which he says he does not think they did, as immaterial, irrelevant and incompetent.

Q. Did you see them again after they left you on the understanding that they were going to Helena?

A. I did, yes, sir.

Q. How many days afterwards?

A. Well, I couldn't say. I used to see them at divers times, once or twice a week. They used to come to my place after mail; I was postmaster and kept the post-office, and they came there for mail two or three times a week. I couldn't say the exact number of days that elapsed from the time they left me on their way to Helena before they returned.

Q. Did you see them or have knowledge of the fact of their going back to Helena again after the lapse of sixty days? A. I did.

Q. What knowledge do you have on that subject?

A. I went with them from Missoula to Helena; I went with Mr. McConnell. To the best of my recollec-

(Testimony of Chauncey L. Griswold.)

tion Mr. Sperry was over there in the vicinity of Helena, and Mr. McConnell went over there, and we met at the land office the day following.

Q. Just a moment. You went with Mr. McConnell from Missoula to Helena? A. Yes, sir.

Q. He was an old, infirm man, you say?

A. Yes, sir.

Q. This was on the second occasion on his going up there to make his final proof? A. Yes, sir.

Q. Were you two alone; was anybody else with you at that time? A. I believe we were alone.

Q. Who paid Mr. McConnell's railroad fare?

A. I did.

Mr. BICKFORD.—We object, and move to strike one question and answer out, for the reason that the same is leading in the first place, and next because it is irrelevant and immaterial.

Q. What time did you arrive at Helena?

A. I think it was about ten o'clock in the evening.

Q. Where did you stay?

A. I stayed at the Cosmopolitan Hotel myself, and I don't know where Mr. McConnell stayed.

Q. Did you see him the next day? A. I did.

Q. Where? A. At the land office.

Q. As to whether or not you had made an appointment to meet him there?

A. I did make an appointment to meet him there at the land office.

Q. At what time? A. At about nine o'clock.

(Testimony of Chauncey L. Griswold.)

Q. Please state to the Court what you did there at the land office with Mr. McConnell.

A. I acted as a witness for Mr. McConnell.

Mr. BICKFORD.—We object, because the record of the United States land office is the best evidence as to what was done there, and not the oral testimony of this witness, and move to strike the testimony out for that reason.

Q. Proceed, Mr. Griswold, step by step, if you please, in the course of the proceedings in the register and receiver's office there at Helena.

A. To the best of my recollection, Mr. Sperry and myself were witnesses for Mr. McConnell in making his final proof.

Mr. WALSH.—Objected to, because the final proof itself is the best evidence.

A. (Continued.) Mr. McConnell and myself were witnesses for Mr. Sperry in making his final proof. Final proof was made and accepted, as far as I know.

Q. State as to whether or not you had personal knowledge of the execution of the certificate of the receiver and the delivery of the same to Mr. McConnell.

Mr. BICKFORD.—Objected to, because the record itself is the best evidence.

A. I have no recollection, no knowledge of its being delivered to Mr. McConnell or Mr. Sperry there in this case. My directions to the receiver of the land office—

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—That is objected to as not responsive to any question.

Q. If you have no personal knowledge in these two particular cases, please state if you had any instructions from your principal Mr. Cobban, as to what was to be done.

Mr. BICKFORD.—Objected to for the reason that it is irrelevant and immaterial, and not responsive to any issue in the case.

A. Mr. Cobban directed me to go over there and help those two people to make final proof, and directed me to pay to the land office the fees for the receiver, and have final receipt sent to him by mail at Missoula.

Q. Who made the payment for the lands?

A. I did.

Q. How much did you pay?

Mr. BICKFORD.—Objected to, because the presumption would be that the law had been followed with reference to the payment for the land. The price of the land is fixed by law, and if a final proof is made, the presumption would be that the price which is established by law would have been paid by the party making the final proof.

A. Two dollars and a half per acre and one dollar as land office fees, amounting, I believe, to eight hundred and two dollars for the two claims.

Q. From whom did you receive that money?

A. From Mr. Cobban.

(Testimony of Chauncey L. Griswold.)

Mr. BICKFORD.—Objected to for the reason that it is irrelevant and immaterial.

Q. When did you receive it?

A. I believe the day prior to making the final proof, the day that McConnell and I went to Helena to make it.

Q. Where did you receive it?

A. In Missoula.

Q. Whereabouts in Missoula?

A. At Mr. Cobban's office.

Q. Who was present in Mr. Cobban's office at the time when the payment of the money was made by him to you?

A. Well, I couldn't say as to who was present.

Q. Have you any recollection or knowledge of anybody else being present besides you and Mr. Cobban at the time he delivered the money over to you?

A. I presume that Mr. A. E. Pond and Mr. J. B. Catlin was there.

Mr. BICKFORD.—Objected to as immaterial, irrelevant and incompetent, and not responsive to the question, because the witness does not answer of his own knowledge, but answers that he presumes that certain persons were present, without saying positively that they were present.

Q. Who returned with you to Missoula, if any one?

A. Well, that I couldn't say.

Q. In other words, did McConnell and Sperry go overland, or go back on the train?

(Testimony of Chauncey L. Griswold.)

A. Mr. McConnell came back by train.

Q. With you?

A. With me, yes, sir. I remember that very distinctly, for he lost his ticket and I had to buy him another one.

Q. As to whether or not you had bought the first ticket for him?

A. I did; I bought a return ticket from Missoula to Helena, and he lost his return ticket, and I had to buy him another one.

Mr. BICKFORD.—We move to strike out both question and answer, because the question is irrelevant and immaterial, and the answer for the reason that the same is not responsive to the question.

Q. Did I understand you to say that you left instructions with the officers at the land office to send the certificate on to Mr. Cobban?

A. I did, the final receipt.

Q. The final receipt on to Mr. Cobban?

A. Yes, sir.

Mr. WALSH.—I move to strike that out for the reason that the witness had not so testified, and the question is leading.

Q. As to whether or not that applied to both of the cases? A. It did.

Q. Have you knowledge as to whether or not the final receipts were so sent on?

A. I have no knowledge of that.

(Testimony of Chauncey L. Griswold.)

Q. Do you know where Mr. Sperry stopped while he was in Helena?

A. I do not; they have relatives there, so they told me, that they had relatives there; that is all I know about it. They told me that they had relatives there in Helena and they would stay with them, both McConnell and Sperry.

Q. I would next call your attention, Mr. Griswold, to the case of Marion B. Watson, or Harriet Watson, rather, page 18. I would ask you if you know such a person as Harriet Watson? A. I do.

Q. Who is she?

A. She is the wife of D. E. Watson, and mother of Marion B. Watson.

Q. Did you know her in the spring of 1899?

A. I did.

Q. Where was she then living?

A. She was living right close to her son, Marion Watson, about four miles above the mouth of the Clearwater, on the Blackfoot River.

Q. Who was she living with? A. Her husband.

Q. What was her husband doing?

A. He was working with Mr. Marion Watson.

Q. What doing?

A. Well, they logged during the winter, the old man and the son, logged during the winter of 1898-99.

Q. What did they do in the summer time?

A. I don't know that they done anything than cruise

(Testimony of Chauncey L. Griswold.)

around in the woods. Mr. Marion Watson worked for me a portion of the time.

Q. Was he what was known as a land cruiser?

Mr. BICKFORD.—Objected to as leading.

Q. You say he cruised around in the woods; just what do you mean by that?

A. Well, he worked for me; yes, sir, he was a very fair land worker; he was a very fair man.

Q. How old a person is this Harriet Watson?

A. I should say that she is at least fifty, perhaps older.

Q. Tell us, please, when it was and where it was that you first saw Harriet Watson in connection with her making a location?

A. Mr. Marion Watson, his wife, Katie, and his mother, Harriet, came from their place down to Clearwater to see me, to have me go and show them claims; I cannot say the date, but I presume it was sometime in June, of 1899.

Q. Came to your house? A. Yes, sir.

Q. What time did they come there?

A. Well, I should say it was about nine o'clock in the morning.

Q. Just name the persons over again.

A. There was Marion B. Watson, Katie Watson, his wife, and Harriet Watson, his mother.

Q. Two women and a man? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. They came to see you about helping them to make locations? A. Yes, sir.

Q. You may state as to whether or not, previous to their coming to your house and previous to the persons I have already called your attention to, and subsequent to the entry into the contract that you have referred to with Mr. Cobban, you had caused it to be spread throughout the whole Clearwater district that you wanted to get men and women to take up claims, and that you would pay all the expenses connected therewith and pay each of them one hundred dollars for each location?

Mr. WALSH.—Objected to because it is leading, also because it calls for a conclusion of the witness as to spreading this thing or causing it to be spread, without ascertaining what he did in the premises.

A. I did.

Q. Now, then, will you please state to the Court for our information just what you did in the way of causing it to be known through that country that he would be willing to do what you have just stated in the last answer?

A. These several parties that have taken claims would come to me and want to know if they could get claims and what there was in it for them clear of all expenses, and I answered according to my instructions, that Mr. Cobban was willing to pay them one hundred dollars apiece for the use of their right, and he would pay all expenses. They would tell it from one to an-

(Testimony of Chauncey L. Griswold.)

other; I think it was generally known throughout the whole Clearwater country, or the Blackfoot country.

Mr. WALSH.—We move to strike out the last part of the answer of the witness, in which he says he believes it was known through the Clearwater country, for the reason that the same is immaterial, irrelevant and incompetent and is not responsive to the question as to what he did. We move to strike out the remainder of the answer for the reason that it is not responsive to the question, being simply a statement of what the witness did or said when the parties came to him with a view of obtaining claims, and for the reason that it is immaterial and irrelevant.

Q. And you say it was after you had caused this to be spread throughout the Clearwater district that these Watsons came to your house to see about getting a location?

Mr. WALSH.—We object to that, for the reason that it assumes a fact as proven that has not been proven, namely, that it was after he had caused it to be spread, and the further fact that he caused any such intimation to be spread abroad, which it assumes to have been proven, but which has not been proven.

A. Yes, sir.

Q. Had you had any conversation with this old lady, Harriet Watson, previous to the day that she came to your house to see you about taking up this location?

A. No, sir. Her son, Marion, made all the terms for her and his wife, Katie.

(Testimony of Chauncey L. Griswold.)

Q. In their presence?

A. No, sir, they were not present.

Q. That is some day before, you mean that a day before this time?

A. Yes, sir, a day day before this time; the day before they went to look at the claims, they were not present, and Mr. Watson made the bargain with me for the claims.

Q. And then the next day they came to your house?

A. I believe so, yes, sir.

Q. And that, as I understand it, was in pursuance of what you have stated, that you were to pay them one hundred dollars and their expenses?

A. Yes, sir.

Mr. WALSH.—Objected to, because it is leading and because the witness has not so stated.

Q. Is that a fact? A. It is a fact, yes, sir.

Mr. WALSH.—Objected to, because it is leading.

Q. Now, state to the Court what you did with these ladies, these women, what took place there?

A. The day that they went to look at the claims?

Q. The day that they came to your house, yes.

A. We went across the river.

Q. What did they say to you?

A. They said they were ready to go and see the claims—

Mr. BICKFORD.—Objected to as hearsay.

A. (Continued.) They said they were ready to go

(Testimony of Chauncey L. Griswold.)

and see the claims, and we went across the river with the team.

Q. You four?

A. We four. To the best of my recollection Mrs. Harriet Watson and Mrs. Katie Watson went fishing in the Blackfoot river, and Mr. Marion Watson and I went and looked the claims over.

Q. How far was the point where the women were fishing from the location?

A. In the neighborhood of two miles.

Q. Then, as near as they went to the location was two miles from them?

A. To the best of my knowledge, yes, sir; I haven't any knowledge of their ever being any closer than that to them.

Q. You can say positively, can you not, as to whether or not they went nearer than two miles to the locations on this day that they went up there?

Mr. WALSH.—Objected to as leading.

A. They might have went a little less than two miles, but I will venture to swear positively that they were not within a mile of them on that day.

Q. They were not on the claims at all?

A. No, sir, not within a mile of them that day.

Q. You left them at the fishing ground and you and Watson went on? A. Yes, sir.

Q. What did you do when you went up there?

A. We went and found the corners. Mr. Watson had

(Testimony of Chauncey L. Griswold.)

looked over the land prior to this time, and he went with me to the corner, and we from the corner traveled on line and ran the lines out and found the survey descriptions of the land that Mrs. Watson took.

Q. Now, make the same examination that you had with reference to this place.

A. The north half of the southeast quarter—

Mr. BICKFORD.—We object, as we have heretofore, to the witness reading the description of the claims from the printed complaint on file herein, and refreshing his memory from the complaint, rather than from memoranda made by himself, or testifying from his personal knowledge of the facts which he now attempts to state.

Mr. WALSH.—We also desire to have it appear in the record that he does read from the complaint.

Q. You have compared these descriptions with your own map, and from the two and from your personal examination of the land you are able to say accurately that this is the description? A. Yes, sir.

Mr. WALSH.—Objected to as leading.

Q. And the description in the bill is correct?

A. It is.

Q. And you may state this, as to whether or not the printed copy of the bill of complaint which you have in your hands was delivered by me to you several weeks ago for the purpose of making the examination between your own notes that you yourself made, to determine the accuracy of the descriptions in the bill of complaint?

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—Objected to for the same reason, leading.

Q. Is that so? A. It is a fact, yes, sir.

Q. And as to whether or not, since the delivery of the bill by me to you for that particular and identical purpose, you have made such an examination?

Mr. WALSH.—The same objection, leading.

A. I have.

Q. And from such examination you are able to state that the printed descriptions are absolutely correct?

Mr. WALSH.—The same objection, leading.

A. Governing these cases, it is, yes, sir.

Q. How long did you say that you were upon that land with Mr. Watson?

A. I think we were on the lands about two hours, probably—on the two claims.

Q. And the other claim is—what is her name?

A. Katie, I believe.

Q. That is on page 20 of the printed bill of complaint.

A. Yes, sir. You didn't get the description of that Harriet Watson claim.

Q. I didn't get the full description?

A. No, sir.

Q. Well, what is the full description? That is, you didn't give it to the stenographer? A. No, sir.

Q. Just give it to him, please.

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—We object again to the witness reading from the bill of complaint in answer to this question, as he appears to be doing.

A. The north half of the southeast quarter, the northeast quarter of the southwest quarter and the southeast quarter of the northwest quarter of section twelve, township fourteen, north, range fourteen west.

Mr. MAYNARD.—You might enter, Mr. Stenographer, that it is stipulated that there is a continuing objection to each one of the descriptions and as to the testimony of the witness on the point that is covered in the objection of Brother Walsh, as to his referring to the printed bill of complaint.

Mr. WALSH.—It being also understood and stipulated that in answer to the same question with reference to each entry, the witness reads from the bill of complaint as before.

Mr. MAYNARD.—Certainly, on the theory that it is a physical and mental impossibility for him to do otherwise.

The EXAMINER.—Mr. Walsh doesn't agree to that perhaps.

Mr. WALSH.—I don't want to stipulate that, no.

Q. Have you given the stenographer the full description now?

A. Of the Harriet Watson claim, yes, sir.

Q. Now, then, on this same day and at this same time you made the Katie B. Watson location?

(Testimony of Chauncey L. Griswold.)

A. Katie Watson, yes, sir.

Q. Named Katie B. Watson in the bill of complaint —I am mistaken; Katie Watson, that is right. And the description in full of that land is what?

A. Of Harriet Watson?

Q. No, the Katie Watson claim.

A. The northeast quarter of section twelve, township fourteen north, range fourteen west.

Q. And who did you say, or did you say who Katie Watson was?

A. She is the wife of Marion Watson.

Q. How old a woman is she?

A. Why, I should judge she was thirty years old.

Q. And where was she living at the time?

A. She was living with her husband about four miles above the Clearwater on the Blackfoot.

Q. Did they own any property there that you have knowledge of?

A. No realty at all, nothing but some personal property.

Q. What did the personal property consist of?

Mr. WALSH.—That is objected to as entirely immaterial.

A. Household furniture and horses and wagons and sleighs and such as that.

Q. What would you say would have been the cash value of all the visible personal property that they had?

(Testimony of Chauncey L. Griswold.)

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. My judgment would be about four hundred dollars.

Q. After you had finished the work in hand, state as to whether or not you went back to the fishing ground and took up the ladies? A. We did.

Mr. BICKFORD.—Objected to for the reason that it is leading.

Q. And then where did you go with them?

A. I went across the river with them to my place at Clearwater.

Q. Have you any knowledge of the two women going to the land office? A. I have.

Q. When did they go?

A. Well, it was about—it was not more than two or three days subsequent to the time that Mr. Watson and I went on the land.

Q. How did they go ?

A. They went with a team from their home to Missoula, and from Missoula to Helena; I have no knowledge of how they went.

Q. As to whether or not you gave the same slips of paper containing the descriptions and the names of the witnesses to them? A. I did, yes, sir.

Q. To be delivered to Mr. Cobban? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—We object to that question because it is leading, and move to strike out the testimony concerning the contents of the slips of paper, because the same is not the best evidence.

Q. Did you see them after their return from Helena?

A. I did.

Q. Have you personal knowledge, at the expiration of sixty days, of their going again to Helena for the purpose of making their final proofs?

Mr. BICKFORD.—Objected to as leading.

A. I have; I was one of their witnesses.

Q. Will you please state the facts and circumstances in detail in connection with your going with these women to Helena on that occasion; where did you meet them first and so on.

A. To the best of my recollection I met them at Missoula and accompanied them to Helena, together with Mr. Cobban. We got to Helena about ten o'clock in the evening, I think.

Q. You four? A. Yes, sir; five.

Q. The two Mrs. Watson?

A. Marion Watson and Mr. Cobban and myself, and if my recollection is right, Mr. Dinsmore was with us, or with Mr. Cobban.

Q. Who is Mr. Dinsmore?

A. Well, I understood he was a partner of Mr. Cobban's in the real estate business in Missoula.

(Testimony of Chauncey L. Griswold.)

Mr. BICKFORD.—We object and move to strike out the answer of the witness, because he states what his understanding was, and not what his knowledge is concerning the matter.

Q. Well, Mr. Cobban was along this time himself.

A. Yes, sir.

Q. Did you make an appointment with him to meet at the land office the next morning, or were you, in fact, there?

A. I was there at the land office next morning at nine o'clock.

Q. Were the women, Watson, there?

A. Yes, sir.

Q. And Mr. Cobban? A. Yes, sir.

Q. What took place there?

A. They made final proof, completed their proof, all of them.

Mr. BICKFORD.—We move to strike that answer out for the reason that the records of the land office are the best evidence as to what transpired in the land office as to these proofs.

Q. I ask for information—have you personal knowledge as to whether or not Mr. Cobban received the final receipts on these two entries that day?

Mr. BICKFORD.—Objected to as leading.

A. I have no personal knowledge of that.

Q. You were there as a witness for those women?

A. I was, yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. Did you see the money paid?

A. I don't remember that I did; that is, to the land office.

Q. At the land office? A. No, sir.

Q. Did you pay any money on that occasion to these women? A. I did.

Mr. BICKFORD.—Objected to as leading.

Q. What amount did you pay and for what purpose?

A. I paid them each one hundred dollars.

Mr. BICKFORD.—We object to the question and move to strike out the answer given by the witness for the reason that it is immaterial and incompetent.

Q. Whereabouts were you when you paid each of these women, Watson, one hundred dollars?

A. I was in the parlor of the Cosmopolitan Hotel in Helena.

Q. Who was present?

A. Marion B. Watson, Katie Watson and Harriet Watson.

Q. Did you pay Harriet Watson, too?

A. I did.

Q. Paid each of them, then, one hundred dollars in cash? A. Yes, sir.

Q. At the parlor of the hotel that you have named in the city of Helena? A. Yes, sir.

Mr. BICKFORD.—We object to this as leading, and move to strike out the answer and to strike out all the testimony of the witness with reference to this mat-

(Testimony of Chauncey L. Griswold.)

ter, for the reason that the same is incompetent, irrelevant and immaterial.

Q. Was that before or after going to the land office?

A. It was the evening of the day that the final proof was made, after the final proof was made.

Q. In the evening of the day after they had been to the land office and the final proof had been made?

A. Yes, sir.

Q. That was three hundred dollars that you paid—

Mr. BICKFORD.—Objected to as leading.

Q. —To three women, weren't there? A. Two.

Q. And one man? A. Yes, sir.

Q. Did you pay the three hundred dollars, two hundred dollars to the women and one hundred dollars to the man?

Mr. WALSH.—Objected to as leading.

A. Yes, sir.

Q. From whom did you receive this three hundred dollars? A. Mr. Cobban.

Q. When?

A. Immediately prior to the time of my paying it over to the ladies and Mr. Watson.

Q. Whereabouts were you?

A. In the office of the hotel mentioned.

Q. And what instructions, if any, did you receive from him?

Mr. BICKFORD.—That is objected to because it is not material.

(Testimony of Chauncey L. Griswold.)

A. That I should go and pay them each one hundred dollars according to the agreement that had been entered into prior to that.

Q. And you did it? A. I did it, yes, sir.

Q. Did you ask or did they give you any receipts for the hundred dollars apiece? A. I did not.

Q. You didn't ask for it? A. No, sir.

Q. State as to whether or not this three hundred dollars was in currency? A. It was, in bills.

Q. Who was present in the parlor of the hotel, if any one, besides the three and yourself?

A. I don't remember that there was any one there but just the four.

Q. Did you see Mr. Cobban afterwards?

A. I did.

Q. Did you pay any expenses on that occasion for the women?

Mr. BICKFORD.—Objected to as leading.

A. I believe not; I believe Mr. Cobban paid the expenses on that trip.

Mr. WALSH.—We move to strike out the last statement of the witness, because his belief in the matter is immaterial, irrelevant and incompetent, and because it is not responsive to the question addressed to the witness.

Q. Have you any knowledge as to when the deeds to these particular descriptions were executed by these three to Mr. Cobban?

(Testimony of Chauncey L. Griswold.)

Mr. BICKFORD.—Objected to as leading.

A. They were made the same day that the final proof was made, immediately after. The deed of Harriet Watson could not be fully made out as her husband had to sign it.

Q. Where were they made?

A. They were made in the same building, I believe in the office of Mr. Reese, an attorney there.

Q. In Helena? A. Yes, sir.

Mr. BICKFORD.—We object, and move to strike out the testimony of the witness with reference to a deed having been made, because it is irrelevant and immaterial, and because it is not responsive to any issues in this case, and for the further reason that, if deeds were executed, the deeds themselves would be the better evidence.

Q. What time in the day in Mr. Reese's office were these deeds executed?

A. To the best of my recollection it was about the middle of the afternoon, some time from three to five o'clock.

Q. Who were present in Mr. Reese's office at the time?

A. I couldn't say that there was any one present more than myself and the Watsons.

Q. Was Mr. Cobban there?

A. I believe not.

Q. You think he was not there?

(Testimony of Chauncey L. Griswold.)

A. No, sir, he was not there, that is, at the time of executing the deeds.

Q. Did you have any personal acquaintance with lawyer Reese? A. I had, yes, sir.

Q. Did you take these three Watsons to Mr. Reese's office?

Mr. WALSH.—Objected to as leading.

A. I did, yes, sir.

Q. How did you come to take them there, or go with them there?

A. Well, I knew that Mr. Reese was a notary public, and he was an acquaintance of mine and rather convenient, and we went there, and he made some objections to approving the deeds the way Mr. Cobban had them written out.

Mr. BICKFORD.—We object to that as being hearsay.

Q. Let me inquire for information; when you sent to Mr. Reese's office with these three Watsons, did you or did you not have then in your possession deeds to these three particular descriptions that had already been written out by Mr. Cobban?

Mr. WALSH.—Objected to because it is leading.

A. I had, yes, sir.

Q. All that was required, then, was to have them acknowledged and signed?

Mr. WALSH.—The same objection.

A. That was all.

(Testimony of Chauncey L. Griswold.)

Q. State as to whether or not these deeds were acknowledged and signed in your presence?

Mr. WALSH.—The same objection.

A. They were, yes, sir.

Q. After they were acknowledged and signed who took possession of the executed deeds; did you take them then?

Mr. BICKFORD.—Objected to, leading.

A. I did, and handed them to Mr. Cobban immediately.

Q. And in the evening of the day, the hundred dollars was paid to each of the three of them?

Mr. WALSH.—The same objection.

A. Yes, sir.

Q. Where was Mr. Cobban in Helena when you delivered these three deeds to him?

A. To the best of my knowledge or remembrance he was in the office of the Collins Land Company, adjoining, or immediately across the hall from the land office.

Mr. MAYNARD.—Gentlemen, Mr. Wilkinson is here, and he is anxious to get home with the records. Would you be willing to have him examined?

Mr. WALSH.—I don't know what there is in issue.

Mr. BICKFORD.—I want to state to your Honor and the gentlemen on the other side that there can possibly be no issue upon the question as to the records in this case. The answer in the case is so broad as to cover all the facts with reference to the deraignment of title.

(Testimony of Chauncey L. Griswold.)

The gentlemen on the other side will remember that in filing our answer in this case we have set forth the transfer from Mr. Cobban to the defendant in this case, and giving particularly the date of the transfer of each particular tract of land. It is set forth in the answer that abstracts of title were furnished, therefore there can possibly be no necessity of any testimony upon behalf of the Honorable County Clerk and Recorder of Missoula County, because the record is admitted. There can be no question about that at all. The deraignment of title, the fact that the title has come to the defendant in this case is an admitted fact in the pleadings, and consequently there would be no necessity of encumbering the record by placing Mr. Wilkinson upon the witness-stand to testify as to what was done in his particular office. It having been stated in the answer itself that this record has been made, there would be no necessity of any further evidence with reference to that particular fact. It is not because we object to the evidence going in so much as it is the fact that you are encumbering the record by useless evidence and evidence which is wholly unnecessary when it comes to a consideration of the case.

Mr. MAYNARD.—Well, if your Honor please, it is possible that the position of counsel is correct, but we had the papers here, and my associate and myself think that we had better. inasmuch as the officer is here and he has caused these certified copies to be prepared, to

(Testimony of Chauncey L. Griswold.)

introduce them in evidence, and then it will be a matter for future determination as to whether we would care to have them printed in the record or anything of that kind.

The EXAMINER.—The only question now before me is, as I understand it, by consent of counsel, the witness, Griswold, may be excused, and Mr. Wilkinson, the County Clerk, may be sworn.

Mr. WALSH.—Yes, sir.

The EXAMINER.—Very well; then I will put that down.

November 23d, 1901, ten o'clock A. M.

Hearing resumed pursuant to adjournment.

By Mr. MAYNARD.—Yesterday afternoon I served upon counsel for the defendant a notice, which reads as follows:

In the Circuit Court of the United States, Ninth Circuit, District of Montana.

UNITED STATES OF AMERICA,
Complainant,

vs.

WILLIAM A. CLARK,
Defendant.

Notice.

To the Above-named Defendant, William A. Clark, and to Messrs. William M. Bickford and T. J. Walsh, Solicitors and of Counsel for the Defendant.

(Testimony of Chauncey L. Griswold.)

You are hereby required to produce for the use of the complainant upon the hearing in the above-entitled cause, before Hon. Henry N. Blake, Examiner in Chancery, the original or a duplicate original of a certain contract made and entered into between Robert M. Cobban, of Missoula, Montana, and Chauncey L. Griswold, of Missoula County, Montana, made on or about the 22d day of May, A. D. 1899, reference to which was made by said Chauncey L. Griswold in his testimony before the said Examiner this 22d day of November, 1901, in this cause, and in default thereof, secondary evidence of its contents will be offered in evidence.

And also, the original slips of paper containing the particular descriptions of land located by the several persons named by the said witness, Chauncey L. Griswold, this 22d day of November, 1901, as well as all other papers and communications and writings containing such description or other memoranda relative to all locations of land made by the said Chauncey L. Griswold in pursuance of said contract; or in any other way whatsoever, and in case you fail or refuse to produce the same, secondary evidence of the contents thereof will be offered in evidence by the complainant.

Dated this 22d day of November, A. D. 1901.

FRED A. MAYNARD,

Special United States Attorney for the District of Montana."

(Endorsed on the back thereof by Mr. Walsh is the following:)

(Testimony of Chauncey L. Griswold.)

Service of the within notice at 3:45 P. M., Nov. 22, 1901, hereby admitted.

W. M. BICKFORD and
T. J. WALSH,
Solicitors for Defendant.

By Mr. MAYNARD.—Now, I would like to ask counsel if they had in their possession and will furnish me with the papers therein mentioned?

By Mr. WALSH.—No, we have not, Mr. Maynard.

By Mr. MAYNARD.—You haven't got them?

By Mr. WALSH.—No, sir.

By Mr. MAYNARD.—Haven't you got the contract?

By Mr. MAYNARD.—I thought I saw you comparing them.

By Mr. WALSH.—We had a copy which is the same as yours, a typewritten copy.

By Mr. MAYNARD.—So that you cannot furnish me with the original or duplicate original of the contract?

By Mr. WALSH.—Well, we are not subject to cross-examination; we say we haven't got it.

By Mr. MAYNARD.—Cross-examination or no cross-examination; I am simply asking you for the paper referred to.

By Mr. WALSH.—I told you we didn't have them, Mr. Maynard.

(Testimony of Chauncey L. Griswold.)

By Mr. MAYNARD.—Well, I now offer in evidence, if your Honor please, the paper that was marked by you yesterday "Exhibit 'A,' Complainant, H. N. Blake, Examiner."

By Mr. WALSH.—To the introduction of which we object upon the ground that the same is irrelevant, immaterial and incompetent; the original contract itself is the best evidence of its contents, and no proper foundation has been laid for the introduction of secondary evidence.

By the EXAMINER.—Your paper is admitted, subject, of course, to the objection.

By Mr. MAYNARD.—Well, I will read the contract.

Thereupon counsel for the complainant read the contract marked "Exhibit 'A,' Complainant," into the record, which reads as follows:

"This agreement made and entered into this 22d day of May, 1899, by and between R. M. Cobban of Missoula, Montana, the party of the first part and C. L. Griswold, of Clearwater, Deer Lodge County, Montana, the party of the second part witnesseth:

That the said first party is desirous of acquiring title to good timber land in Missoula or Deer Lodge County, Montana, and whereas, the said second party from his location and acquaintance with the country, is in position to acquire it for said first party, therefore this agreement.

(Testimony of Chauncey L. Griswold.)

Said second party agrees to work to the best of his ability in securing options on any desirable timber land that can be purchased at a reasonable figure.

Second to find locations of timber on surveyed land, which are open for location under the Timber and Stone act, and that will justify the location thereof at the present time that to find good bodies of timber outside of the timber reserve and in a location that will justify the expenditure of eight hundred dollars for scrip, with which to purchase the same. And in all cases to turn the same over to said R. M. Cobban. And said first party agrees to and with the said second party that he will so far as possible examine the various selections made by said second party, and that so far as possible he will purchase the said lands when the price is satisfactory.

Second will where he is satisfied with the amount and quality of land subject to location to send parties to locate the same, and farther to pay to the said C. L. Griswold on each claim hereafter purchased, or any option hereafter acquired by said second party the sum of five cents per thousand feet or fifty dollars for each million feet of saw lumber as usually estimated in the State of Montana, and the same amount for each location made on lands selected by said second party, but filed on by parties whom first party may furnish, or the same amount to be paid to second party on any claim which shall be taken by the second party by the location of scrip. In any and all cases said second party is

(Testimony of Chauncey L. Griswold.)

to show the boundary lines for the said claims to any parties whom first party may send for the purpose. It is mutually agreed that in the actual purchase of land or the location of scrip, the said sum of five cents per thousand feet of saw lumber as measured by the larger buyers of western Montana shall be paid to second party when receiver's receipt is issued. In the matter of location under the Timber and Stone act the commission is to be paid when receiver's receipt is issued and the land properly transferred to the first party or his assigns. This where the location has been made by parties furnished by second party. But where the location are accepted and filed on by parties sent by first party then the commission to be paid as soon as an estimate can be reasonably made not exceeding 30 days. But such amount to be returned to first party in case the entry should be contested and lost on the ground that it was not subject to entry under the Timber and Stone law, said R. M. Cobban agreeing to furnish a reasonable amount of money to said second party to be used in buying options on patented timber claims coming within the meaning of this contract. In other words, first party on receipt of title is to pay to said second party five cents per thousand feet on all timber acquired through the said second party, except the two pieces receipted for May 6th, 1899, and said second party agrees to acquire said land at the lowest possible price for the said first party giving to said first party

(Testimony of Chauncey L. Griswold.)

all benefit derived from commission or discount, except as above mentioned.

In witness whereof the parties hereto have set their hands and seals.

R. M. COBBAN.
C. L. GRISWOLD

Executed in duplicate.

Original.

I do hereby certify that the foregoing "Exhibit 'A,' Complainant," has been carefully copied.

HENRY N. BLAKE,
Examiner.

Direct Examination of Chauncey L. Griswold, Resumed.

Q. Mr. Griswold, one of the persons named by you yesterday that you located on one of these descriptions, was John B. Catlin. You will find his name and the land located by him on page 14 of the bill of complaint. Have you got that? A. Yes, sir.

Q. You may state as to whether or not under and in pursuance of the contract that you made with Mr. Cobban, you located a description of land for Mr. John B. Catlin.

Mr. WALSH.—We object to that as leading.

A. I did; yes, sir.

Q. Who is Mr. John B. Catlin?

A. He was at that time, to the best of my knowledge, in the employ of Mr. Cobban.

(Testimony of Chauncey L. Griswold.)

Q. Where was he living?

A. At Missoula.

Q. What was he doing for Mr. Cobban?

A. Well, he was working in the office all the time that I was there in connection with Mr. Cobban. He was working in the office for him and about his place of business.

Q. By the way, what was Mr. Cobban's business at that time? A. Mr. Cobban's business?

Q. Yes; you say he was working in the office, what office did he have in Missoula?

A. He had a real estate office there.

Q. A real estate office? A. Yes, sir.

Q. And Mr. Catlin was working in Mr. Cobban's office, you say? A. Yes, sir.

Q. How old a man was Mr. Catlin?

A. How old a man was Mr. Catlin?

Q. Yes, Mr. Catlin?

A. I should say Mr. Catlin was sixty years old.

Q. Do you know a woman by the name of L. T. Catlin? A. Yes, sir.

Q. Who is she?

A. She is the wife of John B. Catlin.

Q. Do you know Mr. ——, a man in Missoula by the name of Hershey? A. I do.

Q. What official position did he hold at the time. I call your attention to the time of the making of this contract.

A. He was register of the land office.

(Testimony of Chauncey L. Griswold.)

By Mr. BICKFORD.—We object to any inquiry in relation to Mr. Hershey, upon the ground that it is incompetent, and further we object to any inquiry touching Mr. Hershey, upon the ground that there are no allegations in the bill of complaint in connection with what Mr. Hershey said or did, or what he was.

A. He was register of the land office at Missoula, Mr. Hershey was.

Q. Register of the United States land office at Missoula? A. Yes, sir.

Q. What relation did Mr. Catlin bear to Mr. Hershey?

By Mr. WALSH.—We object to that as being irrelevant, incompetent and immaterial and not pertinent to any issue raised by the pleadings in this case.

A. Mr. Hershey was a son in law of Mr. Catlin.

Q. Can you tell the date that you made this location for Mr. Catlin? A. I cannot.

Q. In you best judgment, when was it, Mr. Griswold?

A. I think it was along the fore part of July, 1899.

Q. Now, I wish you would proceed as you did yesterday, in your own way, and state in detail the facts and circumstances connected with your making the location of land for Mr. Catlin.

By Mr. BICKFORD.—To all of which we object, upon the ground that it is irrelevant and immaterial to the issues in this cause.

(Testimony of Chauncey L. Griswold.)

A. I don't think I was on this land with Mr. Catlin. I went on the land and selected it and found it, and when Mr. Catlin came to my place I told him the boundaries of it; I wasn't on the land with him.

Q. How did you come to make the location for Mr. Catlin?

A. He came to my place and wanted me to show him a claim—show him the boundaries of a claim. I am very positive that I did not go on to the land with him.

Q. Had you previously made the selection?

A. I had previously made the selection, yes.

Q. By whose request did you make the selection?

A. I made the selection at the request of Mr. Cobban, in accordance with my contract with him.

Q. Had you notified Mr. Cobban that you had made a selection for him?

Cross-examination.

(By Mr. WALSH.)

Q. Was that notification in writing or oral?

A. I don't know.

By Mr. WALSH.—I desire to inquire further of the witness.

By the EXAMINER.—You can answer the question.

A. I couldn't say, I notified Mr. Cobban at different times, and sometimes he would be out at my place, and other times I would write him that I had a number of claims subject to entry under the Timber and Stone Act, and he would send parties out there to take them up.

(Testimony of Chauncey L. Griswold.)

Q. And you cannot say whether this notification that you gave him concerning this claim of Mr. Catlin's, was in writing or oral? A. No, sir, I couldn't say.

By Mr. WALSH.—We object now, if the Court please, to the testimony of the witness concerning this matter, for the reason that it may have been in writing and the writing is the best evidence and should be produced.

Q. So, under these circumstances, Mr. Cobban came to your house, did he? A. Mr. Catlin.

Q. Mr. Catlin came to your house, yes.

A. Yes, sir.

Q. Did he come with anyone? A. Yes, sir.

Q. Who did he come with?

A. Came with Mr. Barrett.

Q. Anyone else?

A. Well, I believe not at that time only those two were together then.

Q. Do you know what Mr. Barrett came for?

A. He came for the same purpose, to take up a claim.

Q. Who was this Mr. Barrett?

A. Well, sir, I don't know, he was a stranger to me; that was the first time I ever met him. Mr. Catlin introduced him to me.

Q. Have you seen him since, Mr. Griswold?

A. I have, yes, sir.

Q. Do you know what his business is?

A. Well, I do not; I am under the impression he is a gardener.

(Testimony of Chauncey L. Griswold.)

Mr. BICKFORD.—We object to the witness giving his impression.

A. (Witness continuing.) I am under the impression that he is a gardener, and a fruit grower in the Rattle Snake valley.

Mr. BICKFORD.—We now move to strike out the answer of the witness, because it appears by the testimony of the witness that it is his impression and not his knowledge that he has testified to regarding occupation and residence.

Q. They came to your house and notified you of their errand, and what did you do?

A. I told them where the claims were and directed them to them. There is a road running out to those claims.

Q. Did they return to your house that same day?

A. Yes, sir.

Q. You cannot say as to whether you went with them or not, can you?

A. I couldn't say that I didn't go with them onto this land.

Q. Do you know where the land is? A. I do.

Q. I wish that you would look—you had been on the land and made the location? A. Yes, sir.

Q. Do you know that they afterwards settled on that land, as the result of this work—they made the location of this particular description, did they?

A. Yes, sir, they did.

(Testimony of Chauncey L. Griswold.)

Q. I wish you would identify those two descriptions.

By Mr. BICKFORD.—We object, if your honor please, to the witness refreshing his memory by reference to the printed bill of complaint on file in this cause. We object at this time to the witness again refreshing his memory by reference to a printed bill in his possession, upon the ground that if the witness testifies to a fact it must be a fact within his own knowledge, and not one which is drawn from the pleadings on file in this cause.

A. Lots 4, 5, 6, and 7 in section 6, township 15, north of range 14 west.

Q. You have your map here, have you not Mr. Griswold? A. Yes, sir.

Q. The same that you had yesterday?

A. Yes, sir, and the Barrett claim is lots 2 and 3 and the southeast—there is a misprint there on the bill of complaint.—

Q. What is the mistake, Mr. Griswold?

A. —Quarter of the northwest quarter and the northeast quarter of the southwest quarter of section 6, township 15, north of range 14 west.

Q. I would ask you as to whether or not you are able from your own personal examination of the printed record and the map you have, and your own personal surveying and marking out of these locations, you are able to say that this description is the exact description?

A. It is correct.

(Testimony of Chauncey L. Griswold.)

Q. And applies to all these descriptions that you have referred to?

By Mr. WALSH.—We object to both of these questions, if the Court please, upon the ground that they are both wrong.

A. Yes, sir.

Q. How long did you say that these men were gone from your house?

A. I believe about three hours. Of course, I didn't time them so I could not say as to that exactly.

Q. They went up themselves, the two of them, did they? A. To the best of my recollection, yes, sir.

Q. State whether or not at any time thereafter you went with them or either of them to the land office, in connection with making an entry of these locations?

A. Yes, sir, I did.

Q. I wish you would state just what you did.

A. Well, I went there as a witness for them.

Q. That is on the occasion of their making their final proofs? A. Yes, sir.

Q. You didn't go with them the first time, did you?

A. No, sir.

Q. Tell us what you did on the occasion of your going to act as a witness.

A. Well, I went to Helena in the evening and the next morning about nine o'clock I went to the land office and I filled out the required oath that I had been on the land and knew it thoroughly, for each of them.

(Testimony of Chauncey L. Griswold.)

Q. Were they both there? A. Yes, sir.

Q. Did you have anything to do in these two particular instances of paying any of the expenses?

A. No, sir, I did not.

Q. Did you see any money paid?

A. No, sir, I did not.

Q. Do you know of the execution of deeds by these two parties or either of them to Mr. Cobban?

A. I do not.

Q. Mr. Catlin attended to those matters, did he?

A. *Yes, sir, I suppose so, I don't know.

By Mr. BICKFORD.—We move to strike out from the answer of the witness that particular portion wherein he says, "Yes, sir, I suppose so," for the reason that it is a mere supposition and not a fact which the witness could testify to.

By Mr. MAYNARD.—That may be stricken out; I consent to that motion, and the question and answer may both be stricken out.

Q. Did you have any dealings with them after that time in regard to these locations?

A. No, sir, not in regard to these locations.

Q. Have you been on the land since?

A. I believe not.

Q. Now then, it appears that another one of the persons located by you, was L. T. Catlin, that you have

*Struck out.—H. N. B., Ex.

(Testimony of Chauncey L. Griswold.)

identified as the wife of Mr. Catlin. Do you know on what page of the bill this was?

A. You will find it on page 52, Mr. Maynard, of the bill of complaint.

Q. When did you make the location for Lizzie T. Catlin?

A. I think we located that in the latter part of July or the forepart of August, I wouldn't say for sure which.

Q. Of the year 1899, do you mean?

A. Yes, sir.

Q. I wish you would state as nearly as you can the facts and circumstances connected with this location.

A. Mr. John B. Catlin came to my place at Clearwater with his wife, and a Mrs.—well, I wouldn't say Mrs.—do not know whether it is Miss or Mrs. Martha E. Wright, and Mr. Catlin told them—me that they desired claims and I knew it too, and so I sent Mr. E. R. Kilbourn, a man that was in my employ, with those two ladies and directed him to show the lands to them. He came back and reported that he had done so, and that is about all I know of these two claims.

Q. Did you make the locations yourself?

A. The locations?

Q. The locations.

A. Yes, sir. I selected the lands.

Q. Selected it as desirable land under the Stone and Timber act?

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We object to the question for the reason that it is leading.

A. Yes, sir.

Q. In the case of Catlin, that is, Lizzie T. Catlin, what was the description of that land?

A. The northwest quarter of section 12, township 15, north range 15 west. I believe that is it; we took the entire section; there are three claims in it.

Q. There are three claims in the entire section?

A. Yes, sir, and a fraction, I think.

Q. Who were the three claimants?

A. Matilda E. Wright, L. T. Catlin and Ambrose Martin.

Q. Ambrose Martin? A. Yes, sir.

Q. Did you know this other woman, this Mrs. Wright? A. No, sir, I did not.

Q. Had you ever seen her before?

A. No, sir.

Q. Ever see her after that date?

A. Not to know her I did not.

Q. Did you go with them or either of them to Helena? A. No, sir, I did not.

Q. You didn't act as a witness there, did you?

A. No, sir.

Q. How is it with the case of Mr. Ambrose Martin?

A. Yes, sir, Ambrose Martin. I didn't act as a witness or go on the land with him, I sent a man with him.

Q. And that man, you say was E. R. Kilbourn?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir, Kilbourn went with the two ladies. Kilbourn and S. Tepper were with Martin.

Q. He was in your employ, was he?

A. Yes, sir; both Kilbourn and Tepper were in my employ.

Q. By reason of what?

A. By reason of the contract I had with Mr. Cobban.

Q. With Mr. Cobban, did you say?

A. Yes, sir, Mr. Cobban.

Q. And you hired Mr. Kilbourn—what is his name; how do you spell it?

A. Yes, sir, I employed Mr. Kilbourn. His name is spelt K-i-l-b-u-r-n.

Q. And what did he do?

A. He done just the same work as I did; he would go in and look up these claims and report them to me, and I would then go on and examine them after him, and sometimes I wouldn't do so.

Q. And then what did you do after he made the report to you?

A. I would report to Mr. Cobban or else put people onto the land that Mr. Cobban might send to me, with directions to show them claims.

Q. And is the same true of the employment of Mr. Albert Jemison?

By Mr. BICKFORD.—We object to the question as being leading.

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. Now, let me ask you for information, were there any other persons than the two that you have named that were working with you in making these locations under this contract that you had with Mr. Cobban?

A. I had employed Mr. Marion B. Watson and John Gillis for a short time but they didn't do a great deal of work.

Q. Where are they now?

A. I couldn't tell you where Mr. Gillis is, he is dead. and the other gentleman, I don't know where he is.

Q. Then your knowledge isn't very exact as to either of them.

A. No, sir, the last I knew of Mr. Watson he was in Tacoma, Washington.

Q. And were they all that worked for you?

A. Yes, sir, they were all.

Q. The four that you had assisting you?

A. Yes, sir.

Q. Now, as you were making these locations, state as to whether or not you made any estimate as to the value—as to the amount of timber on this land—these different descriptions.

By Mr. WALSH.—We object to the question for the reason it is outside of the issues raised by the pleadings in this cause, and is for that reason irrelevant and immaterial.

A. Only in a very few cases. I would go on sometimes and estimate a claim, but in the majority of cases

(Testimony of Chauncey L. Griswold.)

I would just go over them to see if there was enough timber on them—to see if there was enough timber on them to pay to take them.

Q. That is the general way that you made that investigation, is it?

By Mr. BICKFORD.—We object to the question as being leading.

Q. And in some particular cases you made the investigation, did you?

Mr. BICKFORD.—Objected to for the reason that the same is leading.

A. Yes, sir.

Q. Now, Mr. Griswold, do you know of other men that were at the same time making estimates of those particular descriptions? A. I do.

Q. What are the men's names?

Mr. WALSH.—Objected to for the reason that it is not within any of the issues raised by the pleadings in this cause, and therefore it is incompetent, irrelevant and immaterial.

A. William Sparks and James Hambly.

Q. Who is William Sparks?

A. He is a man that lives in Missoula, a timber estimator and cruiser.

Q. And who is James Hambly?

A. He is the same, an estimator and cruiser, from Chippewa Falls, Wisconsin.

(Testimony of Chauncey L. Griswold.)

Q. Did you see them there at the time you were making those estimates? A. I did quite often.

Q. Who were they working for, if you know?

By Mr. WALSH.—We object to the question for the reason it is immaterial and irrelevant, and is in no way within the issues raised by the pleadings in this cause.

A. Mr. Hambly was working for Mr. Cobban, and Mr. Sparks was working for Mr. Clark.

Q. The defendant in this case?

A. Yes, sir, that is what they told me.

By Mr. BICKFORD.—Then we will move to strike out the testimony of the witness with reference to who they told him they were working for.

Q. Who told you they were working for Mr. Cobban and Mr. Clark?

A. Mr. Sparks himself told me this.

By Mr. BICKFORD.—We now move to strike out the answer of the witness, upon the ground that it appears from the declaration of the witness to be hearsay evidence.

Q. Mr. Sparks told you that he was making the estimates for Mr. Clark, you say? A. Yes, sir.

Q. And the other man was Mr. Hambly, was it?

A. Hambly, yes, sir.

Q. What did he tell you?

A. He told me he was working for Mr. Cobban.

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We object to the question and to the answer of the witness, for the reason that it is hearsay evidence.

Q. What was that you said?

A. He told me he was working for Mr. Cobban.

Q. Now, allow me to call your attention to the Albert Jemison entry?

A. On page 29 of the bill of complaint, Mr. Maynard.

Q. Who is this Albert Jemison?

A. He is a young man that lives with his parents at Clearwater.

Q. How old a man would you say he was?

A. I should judge him to be about twenty-four or twenty-five years old.

Q. Is he the Albert Jemison that you have referred to as having worked for you under this contract?

A. He is, yes, sir.

Q. How long have you known him?

A. Oh, six years, perhaps more.

Q. What has been his occupation?

A. He has been living with his people who are in the stock business, and farmers.

Q. You think he is about twenty-four years old?

A. I should judge him to be, yes, sir.

Q. What did you do in connection with the locating of him?

A. I went on to the land with him and made an examination, and I also looked over several other claims that day.

(Testimony of Chauncey L. Griswold.)

Q. And what was the particular land and the description of the Jemison claim?

By Mr. BICKFORD.—At this point we desire to make the objection again that the witness refers to the printed bill of complaint on file herein before answering the question propounded by counsel; he is not answering from his own knowledge, but from the contents of the pleading on file, and we desire to have it understood that we object to his doing so and testifying from it.

A. The southwest quarter of section 10, township 14, north of range 15 west.

Q. Did you take Mr. Jemison up there at this time?

A. No, sir, he took me.

Q. How far is it from your house?

A. Oh, I should judge it was about seven miles.

Q. Do you know just exactly where it is?

A. The land, do you mean?

Q. Yes, sir.

A. Yes, sir, I have been on the land several times.

Q. Did you go with him at any time to the land office in connection with this entry.

A. I believe not. After we got through looking at the land and I accepted it, I gave Mr. Jemison one of those slips of paper giving a description of the land and naming the first witness, and directed him to go to Mr. Cobban with it.

By Mr. BICKFORD.—We desire to have it understood that we object to this line of testimony, and we move to strike out the answer of the witness for the reason that the same is not responsive to any question propounded by counsel, and because the same is irrelevant and immaterial.

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We also move to strike out the statement of the witness with reference to the contents of the memorandum which he testified he gave to Mr. Jemison to be given to Mr. Cobban, for the reason that the slip itself is the best evidence.

Q. As I understood you, you did not go to the land office at Helena with Mr. Jemison?

A. I don't believe tht I went with him; I don't remember now that I did.

Q. Did you have anything to do with paying him for making this entry? A. No, sir.

Q. Do you know as to whether or not he got his one hundred dollars for his services for the making of this entry?

By Mr. BICKFORD.—We object to the question for the reason that it is leading.

A. I do not.

Q. You never had any conversation with him upon that subject?

A. He told me he was paid a hundred dollars.

By Mr. WALSH.—We move to strike out the answer of the witness for the reason that it is hearsay testimony and not competent.

Q. He told you that he was paid a hundred dollars, did he?

By Mr. WALSH.—We object to the question because it calls for an answer that is manifestly hearsay, and for the further reason that it is leading.

A. Yes, sir.

Q. Please tell us exactly what he did say to you, Mr. Griswold.

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We object to that for the reason that the question calls for an answer that is hearsay testimony and is incompetent.

A. He told me that he was owing Mr. Cobban some money. I have forgotten the exact amount, and Mr. Cobban gave him credit for that amount of money that he owed him, and then gave him the balance to make up the hundred dollars.

Q. In consideration of what?

A. In consideration of his transferring the land to Cobban.

By Mr. BICKFORD.—We object to the question for the reason that it is leading.

A. (Continued.) In consideration of his transferring the claim to Mr. Cobban.

Q. To whom did you say, to Mr. Cobban?

A. Yes, sir, to Mr. Cobban.

Q. Did he inform you as to how much his debt was to Mr. Cobban?

Mr. BICKFORD.—We object to the question for the reason that it is leading, and upon the further ground that it is hearsay.

A. I believe he told me it was about forty dollars, if I remember correctly.

Q. And he was credited on that debt, the forty dollars, and the balance was paid him in cash?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir, that is what he told me.

Q. Had you had a conversation with him about his making this location and transferring it to Mr. Cobban previous to his making the location?

By Mr. WALSH.—We object to the question for the reason it is immaterial and incompetent.

A. I had.

Q. And just what was the agreement that he made with you in regard to that?

By Mr. WALSH.—We object to that, if the Court please, as being irrelevant and immaterial.

A. He came to my place at Clearwater, and he said he understood I was looking up lands and taking up claims, and he said he wanted to get one for himself and one for his relatives. I don't know how many there is—a score of them I presume—and that they would file on the claims and make final proof and take a hundred dollars each if Mr. Cobban would pay the expenses.

By Mr. BICKFORD.—We now move to strike out all of the last foregoing answer of the witness, because it purports to relate conversations had with another person, and the same is hearsay and irrelevant and immaterial.

Q. And in pursuance of that agreement that you then made with Mr. Jemison, he went on, as I understood you, and made the location.

By Mr. WALSH.—We object to the question for the reason that it assumes a fact which has not been proven

(Testimony of Chauncey L. Griswold.)

by any testimony of the witness, or in any other manner, that an agreement was made with this man; and second, and upon the further ground that it is leading.

Q. Now state what that agreement was that was made between you and Mr. Jemison in regard to this land.

By Mr. BICKFORD.—We object to that because it is leading—and viciously so—and upon the further ground, if there was any such conversation to that effect, it is not competent testimony and is irrelevant and immaterial to the issues in this cause.

Q. There was a conversation to that effect?

A. Yes, sir, there was a conversation to that effect.

Q. Now state again in your own words what you mean by a conversation to that effect.

A. Well, the way he asked it was what there was in it for him, and I told him they were paying a hundred dollars each over and above the expenses, and he said he would be glad to get a claim, and also two or three of his brothers and his father and mother, and several of his sisters; I don't know how many there is of them.

By Mr. BICKFORD.—We now move to strike out the answer of the witness, because it is hearsay, and further it is irrelevant and immaterial to any of the issues raised by the pleadings in this case.

Q. Where did this conversation take place, Mr. Griswold?

A. At my place at Clearwater, Montana.

(Testimony of Chauncey L. Griswold.)

Q. Who was present besides you and Mr. Jemison?

A. I don't think there was anyone else present.

Q. Now you said that he did make the location of this particular description, and afterwards he did tell you that he received the one hundred dollars in the way you have testified.

By Mr. WALSH.—We object to the question for the reason it is leading.

A. Yes, sir.

By Mr. WALSH.—We also object to the testimony in regard to the statement made by the man Jemison, for the reason that the same constitutes declarations of the grantor after he had parted with his title in the land, and therefore the same are irrelevant and immaterial to the issues in this cause.

Q. When you say that you told him they were paying a hundred dollars for each of these locations, who did you refer to, and who did you tell it?

By Mr. WALSH.—We object to that also for the reason that it is leading.

A. Mr. Cobban.

Q. Mr. R. M. Cobban, the man who is here now in this room? A. Yes, sir.

Q. Do you know as to whether or not any of these people that Mr. Jemison spoke to you about on this occasion did afterwards as a matter of fact make selections and locations of land? A. They did.

Q. How many of them?

(Testimony of Chauncey L. Griswold.)

A. Well, I couldn't say that without enumerating them.

Q. Well, can you enumerate them?

A. I think so, very nearly from this printed copy of the bill of complaint here.

By Mr. BICKFORD.—Again we object to the witness testifying from the bill of complaint on file herein, upon the ground that it is incompetent.

A. (Continued.) I find there was twenty-three of them, Mr. Maynard.

Q. Just what do you mean by that, twenty-three of what?

A. Twenty-three persons that were his relatives.

Q. Twenty-three of Jemison's relatives, do you mean?

A. Yes, sir, as I understand it. I know that most of them are his relatives, and I believe they are all related to him.

By Mr. BICKFORD.—We move to strike out the answer of the witness upon the ground it is irrelevant, incompetent and immaterial to any of the issues in this case.

Q. Will you please name them; and I wish you would be kind enough in naming them to name the relationship of those that you know of your own knowledge.

A. There is Eveline Jemison. When I don't know them I will not mention their names.

Q. Eveline Jemison, who is she?

(Testimony of Chauncey L. Griswold.)

A. Well, I don't know who she is, I know that she is some relation to them; I think though that she is a brother's wife, that is my impression, from the Bitterroot valley.

By Mr. BICKFORD.—We move to strike out the impression of the witness, for the reason that it is not competent testimony.

Q. Have you ever seen her? A. No, sir.

Q. Now, the next one.

A. Jennie Mize.

Q. Do you know anything about her?

A. No, sir. Then there is John T. Hendrix.

Q. Do you know anything about him?

A. No, sir; I do not. And here is Zora Jemison.

Q. If you know anything about any of them, just tell it, will you, Mr. Griswold?

A. Yes. Then there is Cavin Garger, I believe he is a brother in law. Charles H. Jemison a brother. Laura Roll, I don't know what relation she is. James Mize, a brother in law of Mr. Jemison, as I understand it. Recy M. Jemison, I don't know what relation. Lavina Gillman, I don't know her relation. William J. Eddy, Herbert Eddy and Mary Eddy, I don't know what relation they are. James W. Wheaton, a brother in law, I believe. Thomas Roll, Matilda Eddy, George Dilldine, a brother in law; Emma Dilldine, a sister, Sarah Yarger, George P. Jemison, a brother, I believe; Joshua Gillman, and Jacob F. Jemison, the father.

(Testimony of Chauncey L. Griswold.)

Q. How many of these persons have you personal knowledge of?

A. Why, I have personal knowledge of five or six of them.

Q. What five do you refer to?

A. Mrs. Eveline Jemison, I know her.

Q. And who is she?

A. I believe she is the mother of Albert.

Q. How old a woman is she?

A. Why, she must be very close to seventy years old, I suppose, she is quite an old lady.

Q. Where was she living at the time?

A. She was living about eight or nine miles west of Clearwater.

Q. Who was she living with?

A. Her husband and family.

Q. And what was her husband doing?

A. He was engaged in the stock business there and farming.

Q. Did they own any property there that you knew anything about? A. No real estate.

Q. Did they have any personal property that you know anything about?

By Mr. BICKFORD.—Objected to as immaterial and irrelevant to the issues in this case.

A. They had livestock and farming implements.

Q. Well, how much?

A. Well, that I couldn't say. They had quite a number there of cattle—cattle and horses.

(Testimony of Chauncey L. Griswold.)

Q. Well, how many, do you think?

A. Well, they may have had fifty head altogether there, perhaps more.

Q. Do you know of any means that this old lady had to buy a hundred and sixty acres of land?

A. No, sir; they were considered poor people in that country.

By Mr. WALSH.—We object to that as being incompetent, irrelevant and immaterial.

Q. They were considered poor people in that country, you say? A. Yes, sir.

By Mr. BICKFORD.—We object to the testimony of the witness, and to the answers to the last two questions, for the reason that the same are not responsive thereto, and further that their reputation as to their financial standing is wholly irrelevant and immaterial to any of the issues raised by the pleadings in this cause.

Q. You will state generally, Mr. Griswold, so far as you know, as to whether or not these people that you have named that were located by Albert Jemison under this contract that you have referred to, had any money or means with which to buy government land.

By Mr. BICKFORD.—We object to the question in the first place because it is leading, and in the second place because it is irrelevant and immaterial.

A. Well, all of these parties that I am personally acquainted with were not in my opinion in a position

(Testimony of Chauncey L. Griswold.)

where they could possibly raise the amount of money that would be required—for the purpose of perfecting title to a hundred and sixty acres of land.

By Mr. WALSH.—We now move to strike out the answer of the witness for the reason that the opinion of the witness upon the matter is immaterial.

Q. As to whether or not all of these people that you have referred to as having located yourself, and those that are named by Mr. Jemison that you say that you had personal knowledge of, and that were living up in the woods in the vicinity of Clearwater, or in that vicinity, most of them.

By Mr. BICKFORD.—We object to the question as leading.

A. No, I think the majority of them were living in the Bitterroot valley.

Q. In the Bitterroot valley, did you say?

A. Yes, sir. The old people and the single boys were living at Clearwater or near there.

Q. Now, I will call your attention to the case of Belle Bryan. It is on page 15 of the printed bill of complaint. Do you know who Belle Bryan is?

A. Yes, sir.

Q. Who was she at the time of this location?

A. She was a daughter of Thomas B. Bryan.

Q. And who was Thomas B. Bryan?

A. The gentleman that was here yesterday, a man that used to live at Clearwater, he is now living in Missoula.

(Testimony of Chauncey L. Griswold.)

Q. How old did you say that Belle Bryan was at the time of her making this application?

A. I think that she was twenty-two or twenty-three years old.

Q. An unmarried woman at the time?

A. Yes, sir.

Q. Where was she living?

A. Well, she was living with her parents in Missoula.

Q. Did you make the location for her?

A. I approved of the selection.

Q. You approved of the selection that she afterwards made, did you?

By Mr. BICKFORD.—We object to the question because it is leading, and also to the answer because it is not responsive to the question.

Q. State as to whether or not you went with her on to this land? A. I did not.

Q. Do you know who did? A. I do not.

Q. Did you afterwards go with her to the land office?

A. I did.

Q. Where? A. At Helena.

Q. Will you please state the circumstances of your going with this young woman to the land office in Helena?

A. I was named as one of the witnesses in four proofs that was made at this time.

Q. Four different persons?

(Testimony of Chauncey L. Griswold.)

A. Three different persons I believe it was; three, yes, sir.

Q. Two besides Belle Bryan? A. Yes, sir.

Q. Who were they; please state their names, if you know them? A. Lelia T. Bryan and Edgar Lehman.

Q. You say that—please name again the persons that you went to Helena with?

A. Belle Bryan, Edgar Lehman and Lelia T. Bryan.

Q. Who was Lelia T. Bryan?

A. She is a half-sister of Thomas Bryan that was here yesterday.

Q. So that it was these two Bryan women and Mr. Lehman that you went with to Helena?

A. Yes, sir; and if my recollection is correct, Mr. Thomas Bryan went with us, and his daughter and sister.

Q. Are you able to state the exact description of the Lelia T. Bryan location? That is on page 17 of the bill of complaint.

A. It is the northwest quarter of section 24, township 15, north range 14 west.

Q. You may state as to whether or not you went on this land with Lelia T. Bryan and her brother.

A. I did.

Q. When was that?

A. I think it was in July of 1899.

Q. Will you please state the circumstances of your going on this land with Lelia T. Bryan and her brother?

(Testimony of Chauncey L. Griswold.)

A. Mr. Bryan came to my place, or was at my place, and desired to get claims for these three parties, and I told him he should find them to the best of his knowledge—good claims—and I would go and look at them and approve of them or reject them. He selected this one piece in section 24 and came to me on Sunday. I hitched up one of my teams and took him and his sister to the land and made an examination of it, and the selection was all right. Finally it was made and final proof eventually completed.

Q. How long was this Lelia T. Bryan on the place?

A. To the best of my recollection she was on there fifteen or twenty minutes.

Q. Where did you go to after leaving this particular description?

A. Back to my place at Clearwater?

Q. When did you go with her to Helena?

A. When she went to make her final proof.

Q. And who did you say accompanied you?

A. Belle Bryan, Thomas Bryan, and I believe John B. Catlin.

Q. She had previously, of course, in compliance with the law, made the first application.

A. Yes, sir.

By Mr. BICKFORD.—We make objection to the question upon the ground it is leading.

Q. You may state as to whether or not Mr. Cobban had left in your possession anything for the purpose of

(Testimony of Chauncey L. Griswold.)

paying Miss Bryan's expenses to Helena, for the purpose of making this first application for this particular description that you have now testified to.

By Mr. WALSH.—We object to that question for the reason that it is leading.

A. Yes, sir.

Q. What did he leave with you? A. Currency.

Q. How much currency did he leave with you?

A. Well, I couldn't say just the exact amount, but it was in my hands at that time. My recollection is that I gave Miss Bryan thirty-five dollars.

Q. You gave Miss Bryan thirty-five dollars?

A. Yes, sir.

Q. Now state as to whether or not any portion of this thirty-five dollars was given by you to her for the purpose of paying the filing fee?

By Mr. WALSH.—We object to that question also for the reason that it is leading.

A. Yes, sir; it was.

Q. How much did you give her?

A. I gave her thirty-five dollars.

Q. That was what?

A. That was for the purpose of defraying her expenses from Clearwater to Helena, and paying the fees in the land office for making this filing.

Q. Do you know as to whether or not any advertisement had been made relative to this particular description?

(Testimony of Chauncey L. Griswold.)

A. I saw it, yes, sir; in the "Garnet Mining News.

By Mr. WALSH.—We object to that, for the reason that the paper itself is the best evidence, and the papers themselves in the land office should show that, and that is also the best evidence.

Q. You saw it yourself in the paper, did you?

A. Yes, sir.

Q. And this Miss Bryan was married between the making of the location and going to Helena, was she?

By Mr. BICKFORD.—We object to that as being leading.

A. No, sir.

Q. Well, did she afterwards become Mrs. Gillis?

A. It was Belle Bryan that afterwards became Mrs. Gillis.

Q. Yes, Belle Bryan that went with you?

A. Yes, sir.

Q. And had she married a man by the name of Gillis?

A. Yes, from the time she made the filing to the time of her making proof she was married to this man Gillis.

Q. Well, when the party arrived in Helena, what did you do?

A. Mr. Catlin and the two ladies stayed at the Grand Central Hotel in Helena, and Mr. Bryan and myself stayed at the Cosmopolitan.

(Testimony of Chauncey L. Griswold.)

Q. State as to whether or not you went to the land office on the following morning? A. We did.

Q. Were the final proofs made by these people on that day? A. Yes, sir, they were.

Q. As to whether or not you saw Mr. John B. Catlin that you have identified previously in your testimony, soon thereafter.

A. I did, upon leaving the land office, I met him on the corner of Main and I don't know what street—right opposite to the Grand Central hotel, near the Northern Pacific ticket office.

Q. Did you have a conversation with him?

A. I did.

Q. And what did he say in that conversation?

By Mr. WALSH.—We object to that as being immaterial, irrelevant and incompetent, and as being hearsay.

A. He asked me if we were through making proofs.

Q. And what did you say?

A. I told him we were.

Q. And what did he say?

By Mr. WALSH.—We object to the question for the reason that it is incompetent, irrelevant and immaterial to any of the issues in this cause, and upon the further ground it is hearsay testimony.

A. He asked me then to accompany him to the hotel.

Q. Accompany what?

A. Accompany him to the hotel and he would get the money to pay the fees in the land office, two dollars

(Testimony of Chauncey L. Griswold.)

and fifty cents per acre, and the land office fees, whatever they were, for the three claims.

By Mr. BICKFORD.—We move to strike that out for the reason that it is hearsay testimony.

Q. Did you get the money? A. I did not.

Q. Why didn't you get the money?

A. I don't remember that I went to the hotel with Mr. Catlin; I know that he went there, because I saw him go into the door. I think I was going somewhere else at that time.

Q. Well, do you know where Miss L. T. Bryan and Mr. Lehman and Belle Bryan-Gillis—where they went to after leaving Helena?

A. They came back to Missoula.

Q. What was Miss Bryan doing all the time?

A. She was teaching school at Potomac; it is a place about twenty-four or twenty-five miles from Missoula.

Q. How much of a place is Potomac, Mr. Griswold?

A. Oh, it is just a little farming settlement, with a post office and a hotel there.

Q. What was Mr. Lehman doing at that time?

A. He was working in a saw mill at Bonner, at that time.

Q. And what was Mrs. Belle Bryan-Gillis doing at that time?

A. She was living with her husband at Clearwater.

Q. You may state as to whether or not you had made any arrangement with Mr. Cobban about the matter of

(Testimony of Chauncey L. Griswold.)

receiving deeds from these three parties, and if so, what it was.

By Mr. BICKFORD.—We object to the question as leading.

A. I hadn't any conversation with Mr. Cobban in regard to that. Mr. Thomas Bryan informed me that he had made arrangements in regard to that matter.

By Mr. WALSH.—We move to strike out the answer of the witness in regard to what he says as to Mr. Thomas Bryan making arrangements, as being incompetent.

Q. After your returning from Helena, and after making the final proofs of these three parties, state as to whether or not you saw Mr. Cobban the next day in Missoula, and if so—I will ask you first as to whether you did or did not see Mr. Cobban.

A. I couldn't say as to the next day, but immediately after my return—it may have been two days or three days— but immediately after my return from Helena I saw Mr. Cobban—I presume I did the next day—but I wouldn't say for sure in regard to that matter.

Q. Did you have any conversation with him at that time? A. I did.

Q. What was that conversation?

By Mr. BICKFORD.—We object to the question, for the reason that it calls for hearsay testimony from the witness.

(Testimony of Chauncey L. Griswold.)

A. He asked me why the parties—the Bryans and Lehman—hadn't given him deeds for the land, and I had no way of knowing why they hadn't done it, and told them so, and told him I would see the parties and have them come and execute deeds conveying the land to him.

By Mr. BICKFORD.—Now we move to strike out all the testimony of the witness relating to the conversation between himself and Mr. Cobban, for the reason that the same is irrelevant and immaterial to any of the issues raised by the pleadings in this cause.

Q. State as to whether or not after this conversation that you have just referred to, you saw Miss Lelia T. Bryan?

A. I did, I drove my team to Potomac, where she was teaching school.

Q. How far did you say that was from Missoula?

A. It is in the neighborhood of twenty miles or twenty-five miles, something like that, Miss Bryan accompanied me to Missoula. We got there after dark, and she went to her brother's home, Thomas B. Bryan, and stayed there all night, and the next day we went to Mr. Cobban's office and she executed the deed.

By Mr. BICKFORD.—We object to that for the reason that the deed is the best evidence, and for the further reason that the deed itself seems to have already been placed in evidence, and it is a repetition of the testimony given on yesterday, and for that reason we move to strike out the answer of the witness.

(Testimony of Chauncey L. Griswold.)

Q. The deed from herself to Mr. Cobban?

A. Yes, sir.

Q. Of what description?

A. The same description.

Q. The description that you have already referred to?

By Mr. WALSH.—We object to the question upon the ground that it is leading.

A. Yes, sir; in section 24.

Q. And what, if anything, after the execution and delivery of this deed to Mr. Cobban by Miss Bryan, did Mr. Cobban do?

By Mr. BICKFORD.—We object to that because—

Q. (Continued.) Relative to paying for the same, or anything of that kind.

By Mr. BICKFORD.—Well, we object to that as being irrelevant and immaterial.

A. He gave Miss Bryan a check for a hundred dollars on the First National Bank of Missoula.

By Mr. BICKFORD.—We move to strike out the answer of the witness relative to the check, for the reason that the check itself is the best evidence of the facts stated.

Q. And thereupon where did Miss Bryan go?

A. She returned to her school—no, I wouldn't say that though, I think she remained in Missoula from that time on. She was teaching school at Potomac only tem-

(Testimony of Chauncey L. Griswold.)

porarily, the regular teacher was ill and Miss Bryan took her place.

Q. Now, I will call your attention to the rest of this party of three, Mr. Lehman; you have already testified that he was working at Bonner. How far is Bonner from Missoula?

A. It is about seven miles.

Q. As to whether or not you had any talk with Mr. Cobban in regard to Mr. Lehman executing this deed.

A. Just about the same conversation between Mr. Cobban and me in regard to the Lehman claim as governed the Bryan claim.

Mr. BICKFORD.—We move to strike out the answer of the witness, for the reason it is hearsay testimony, and upon the further ground it is irrelevant and immaterial.

Q. What if anything did Mr. Cobban say to Mr Lehman in connection with this matter?

A. Mr. Lehman?

Q. Mr. Lehman.

A. Well, he wanted me to go and see him and I done so.

Q. You went to Bonner?

A. I did, yes, sir; I went to Bonner.

Q. And did you see Mr. Lehman at Bonner?

A. I did.

Q. Well, what next took place, Mr. Griswold?

A. I asked him why he didn't come down.

(Testimony of Chauncey L. Griswold.)

By Mr. BICKFORD.—Well, we object, if your Honor please, we object to any conversation of the witness with Mr. Lehman, for the reason that it is hearsay and incompetent and immaterial and irrelevant to the issues in this cause.

A. I asked him why he didn't come and do as he had agreed to do with Mr. Bryan and transfer the land to Mr. Cobban. He promised to do so, but he didn't come.

Q. He refused to go to Missoula? A. Yes, sir.

Q. What did you do then?

A. I went back to Missoula and saw Mr. Bryan, and Mr. Bryan and I went to Bonner and saw him, and he did come to Missoula then.

Q. He did come to Missoula then?

A. Yes, sir; and I went with him to Mr. Cobban's office.

Q. And thereupon, what did Mr. Cobban do, if anything, in regard to the deed?

A. Mr. Cobban asked him if he was ready to transfer the land, or was willing to do as he had agreed and he said he was not.

Q. Why?

A. He said the amount of money he was to receive wasn't enough, that the claim was worth more than a hundred dollars.

By Mr. BICKFORD.—I move that all of the conversation between this witness and Mr. Lehman, and this witness, Mr. Lehman and Mr. Cobban, as related in his

(Testimony of Chauncey L. Griswold.)

testimony, be stricken out, for the reason it is irrelevant and immaterial and not responsive to any issue raised in the pleadings in this cause, and because a part of said testimony is hearsay evidence.

Q. After saying to Mr. Cobban that he did not think a hundred dollars was enough, what did Mr. Cobban do?

A. Mr. Cobban said to Mr. Lehman told him at that time that if he didn't want to transfer the claim for that amount of money; that he should give him a note secured by a mortgage on the land, I believe, or some kind of security, and that Mr. Lehman should wait on him for, to the best of my recollection it was ninety days. Mr. Lehman said that he would not do it. Mr. Cobban said he had no way of raising that amount of money in that time, it was five hundred dollars, and he couldn't do it.

Q. Well, what did it all result in?

By Mr. WALSH.—We object to that the witness ought to state all the conversation that occurred between the parties, that would be the proper way for him to do.

A. Subsequently Mr. Cobban gave him a hundred and twenty-five dollars for a warranty deed of the claim.

Q. Gave him twenty-five dollars more?

A. Yes, sir.

By Mr. BICKFORD.—Well, we will now move to strike that out, because it is not the best evidence of the transaction.

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—And further, we object to the question put to the witness for the reason that it is leading.

Q. And in what shape was this one hundred and twenty-five dollars paid by Mr. Cobban at this time to Mr. Lehman? In currency or check?

A. To the best of my recollection it was by check.

By Mr. WALSH.—We now move to strike out the testimony of the witness with reference to the payment of the money, for the reason that the check is the best evidence of that fact.

Q. And thereupon, you may state, if you saw the deed executed and delivered to Mr. Cobban.

A. I do not recollect that I did see the deed executed and delivered to Mr. Cobban.

Q. But the hundred and twenty-five dollars was paid for certain purposes, wasn't it?

By Mr. BICKFORD.—That question is objected to upon the ground that it is leading.

A. Yes, sir.

Q. And what was the purpose of it?

A. In payment for the warranty deed of the claim.

Q. Now, I will call your attention to the lands that you located and for which entries were afterwards made by Thomas Pelkey and B. Frank Chattin.

A. Yes, sir; I selected the lands. It was in section 10, township 14 north of range 13 west.

Q. Had you looked this land over and made any report concerning the same? A. I had, yes, sir.

Q. To whom did you make this report, Mr. Griswold?

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—If your Honor please, I should like to cross-examine the witness with reference to this report.

By the EXAMINER.—Yes, sir.

(By Mr. WALSH.)

Q. Was this report in writing, Mr. Griswold?

A. I believe not.

Q. You don't know?

A. No, sir; I am not positive whether it was in writing or not with regards to these two special claims. Mr. Cobban came to my house at Clearwater, I believe, with these parties six of them—six different men—and I had several claims selected, and these was two of them that I had selected, and Mr. Cobban directed or requested that I should send these two men Pelkey and Chattin out to these two claims to look at them.

Q. You answered more than I asked you. I asked you whether you had made a written report to Mr. Cobban with reference to the selection of these lands which were afterwards located by Mr. Chattin and Mr. Pelkey.

A. I couldn't say that I did.

Q. Well, can you say that you did not?

A. No, sir.

Q. You don't know whether you did or did not?

A. No, sir.

(By Mr. MAYNARD.)

Q. I understood you to say in reply to my brother Walsh, that Mr. Cobban himself came to your home at

(Testimony of Chauncey L. Griswold.)

Clearwater with six different men, and among them were these two men, Thomas Pelkey and B. Frank Chattin.

A. Yes, sir, I believe there were six men. There was a spring wagon full of them.

Q. Did Mr. Cobban say anything to you at that time as to what he desired to have those six men do?

By Mr. BICKFORD.—We object to the question for the reason it is irrelevant and immaterial, and upon the further ground it is hearsay.

A. Well, he wanted to know where the claims were that I had selected, and I told him there were two in section 10, and that there were other claims that Mr. Cobban and I had looked over in section 22 and section 26, township 15, north range 15 west. He introduced me to these two gentlemen, Mr. Pelkey and Mr. Chattin, and said he would like to have them take up the two claims in section 10, that I had selecetd.

Q. You may state as to whether or not you subsequently went with these two men to the land office at Helena on the occassion of their making their final proofs?

A. I did, I was in Helena and they came there and met me and I went with them to the land office.

Q. Did they make their final proofs?

A. They did.

Q. What, if anything, was said at that time about who should receive the final receipts on these two entries?

(Testimony of Chauncey L. Griswold.)

By Mr. BICKFORD.—We object to that as being leading, and upon the further ground that it is hearsay.

A. My recollection of that is that I directed Mr. Greene, the Register of the land office in Helena, to send the final receipts to Mr. Cobban by mail.

Q. You may state, Mr. Griswold, if you know, who paid for these two descriptions, Mr. Pelkey's and Mr. B. Frank Chattin's? A. I paid it myself.

Q. You paid the money?

A. I paid the money into the land office, yes, sir.

Q. How much?

A. Two dollars and fifty cents an acre.

Q. Besides the land office fees for one hundred and sixty acres each? A. Yes, sir.

Q. Whose money was this?

A. Mr. Cobban's.

Q. Where did he give you this money?

A. To the best of my recollection he gave me a check for this money in Ovando.

Q. In Ovando.

By Mr. WALSH.—We move to strike out the testimony of the witness concerning the money received, as stated by the witness, by reason of the fact that it appears that a check was given, and the check itself would be the best evidence of that fact.

A. Yes, in Ovando.

Q. Where is Ovando?

A. Ovando is about seventy-five or eight miles east of Missoula, on the Blackfoot river.

(Testimony of Chauncey L. Griswold.)

Q. Did you— As to whether or not— You say this money of Mr. Cobban's that you paid for these two different entries in the land office—was it the check itself or did you get the check cashed?

A. Oh, I got the check cashed. It was a portion of two thousand seven hundred and forty dollars that Mr. Cobban gave me.

Q. A portion of the check for the amount of two thousand seven hundred and forty dollars?

A. Yes, sir.

Q. That Mr. Cobban paid you at Ovando?

A. Yes, sir, to the best of my recollection it was two thousand seven hundred and forty dollars. I know it was two thousand seven hundred dollars, and I think it was two thousand seven hundred and forty; I am not absolutely sure as to that.

Q. Payable to your order, was it?

By Mr. WALSH.—We object to that upon the ground that the check itself is the best evidence of that fact.

A. Yes, sir.

Q. And the money that you paid into the land office was in currency, was it? A. Yes, sir.

Q. I will ask you for information as to whether or not afterwards you were present when these two men executed their deeds to Mr. Cobban?

A. No, sir.

By Mr. BICKFORD.—We object to the question for the reason that it is leading.

(Testimony of Chauncey L. Griswold.)

Q. You were not present, you say?

A. No, sir.

Recess taken until two o'clock P. M. same day.

November 23d, 1901, Afternoon session, 2 o'clock P. M.

Hearing resumed pursuant to adjournment.

Direct examination of C. L. Griswold continued.

(By Mr. MAYNARD.)

Q. Mr. Griswold, I wish that you would turn to pages five and six of the printed bill of complaint in this case. At the bottom of page five the name of Charles Cloutier; and on page six the name of John Gillis. Do you know who Charles Cloutier is? A. Yes, sir.

Q. And John Gillis?

A. I do, or rather did.

Q. Where was Charles Cloutier and John Gillis living at the time of the making of this contract with Mr. Cobban?

A. John Gillis was cooking for me at that time at Clearwater, and Charles Cloutier was boarding with me.

Q. How long had Charles Cloutier boarded with you?

A. Why, to the best of my recollection, about a month.

Q. Who was he?

A. He was what is named on the Blackfoot as a "lumber jack," that is, he followed the lumber camps and worked in the lumber camps for a living, was a laboring man.

(Testimony of Chauncey L. Griswold.)

Q. What was he doing while he was boarding at your house?

A. Wasn't doing anything, he was out of employment at that time of the year.

Q. Do you know as to his financial worth?

By Mr. WALSH.—We object to the question upon the ground that it is immaterial as to what the financial condition of John Gillis was.

A. I know that he was a poor man and had no money, and spent his money about as fast as he could earn it.

Q. And how about John Gillis?

A. John Gillis worked for me about three years in the capacity of a cook.

Q. Worked for you in the capacity of a cook?

A. Yes, and he had no money.

Q. Do you know of the fact of their taking up locations and making entries and making final proofs and obtaining the receipts, final receipts, under the Stone and Timber Act by virtue of this contract which you had made with Mr. Cobban?

By Mr. WALSH.—We object to the question for the reason it is leading.

A. I do.

Q. You may state, Mr. Griswold, as to whether or not these two men were so associated together in this matter that you could refer to them together or separately?

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We object to the question for the reason it is leading.

A. I could refer to them both together or separately.

Q. I am speaking simply for the purpose of facilitating time.

A. Well, we had better take them both together.

Q. I wish you would go ahead and state the facts and circumstances connected with these two men in connection with this entry.

A. Well, these two men, Mr. Gillis and Mr. Cloutier were the first two that I made selections for under this contract, and they knew that I had entered into this contract, for I told them so, and they wanted to know what there was in it for them, and I told Mr. Cloutier that he could get a hundred dollars over and above his expenses, and I told Mr. Gillis to go and see Mr. Cobban himself. The next time Mr. Cobban came to my place Mr. Gillis came out and had a talk with him, and the result was that Mr. Cobban paid Mr. Gillis a little more than he had paid Mr. Cloutier.

By Mr. BICKFORD.—We move to strike out all of this last answer of the witness, for the reason it is hearsay evidence, and for the further reason that it is irrelevant and immaterial to any of the issues raised by the pleadings in this cause.

A. (Witness continuing.) At least there was—there was an agreement—anyway they were satisfied to go and take the two claims, and they asked me to show it to them.

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We object to that portion of the answer of the witness wherein he says that they were satisfied to go and take the two claims, for the reason that it appears to be a conclusion drawn by the witness from the circumstances.

A. (Witness continuing.) I went with them to the section 10 that has been referred to before, and the timber didn't satisfy them; the two claims didn't satisfy them, and we went down on through section 10 to section 11 and section 12, and we found two claims there that satisfied them, and they had to go to Helena and make application to purchase. I furnished them the funds for their other expenses over there and paid the fees of the land office.

Q. Did they go together?

A. When they went to make their filings, they did, yes, sir.

Q. That is, you mean the second time, the second trip.

A. No, sir, the first trip, when they went to make application for the land.

Q. Did you furnish them with the money to go with?

By Mr. BICKFORD.—We object to the question, for the reason that it is leading.

A. I did.

Q. How much did you give them, Mr. Griswold?

A. To the best of my recollection I gave them twenty-five dollars a piece.

Q. And whose money was it that you gave them?

(Testimony of Chauncey L. Griswold.)

A. A portion of the money that was left in my hands by Mr. Cobban for this purpose.

By Mr. BICKFORD.—We now move to strike out the answer of the witness to the last question, for the reason that it is immaterial and irrelevant.

Q. Now, what did you say—let me understand again—yes, the exact understanding or agreement that you say you had with Mr. Cloutier before he went to Helena the first time for the purpose of making—filing on his claim.

By Mr. BICKFORD.—We will interpose an objection at this point to the question, for the reason that any agreement made between the witness and Cloutier is irrelevant and immaterial to the issues in this cause, and does not prove or tend to prove any issue whatever in the case.

A. The understanding and agreement between Mr. Cloutier and myself was that Mr. Cobban—(interrupted).

By Mr. WALSH.—We now object to the witness giving any understanding that there was, for the reason that the same is immaterial and irrelevant and is simply a conclusion of the witness drawn by him from the conversation had. The only relevant testimony, if any of it is relevant, is the conversation had between the parties.

A. (Witness continuing.) —Would pay all of his

(Testimony of Chauncey L. Griswold.)

expenses and give him a hundred dollars in excess thereof upon the transfer of the land to Mr. Cobban.

Q. When was he to transfer the land to Mr. Cobban, if you know?

By Mr. WALSH.—We object to that because it calls for a conclusion of the witness in regard to the substance of the conversation that the question assumes to have been had.

A. Immediately after his having made final proof.

Q. Where did this—where was this agreement made between you and Mr. Cloutier, Mr. Griswold?

A. It was made at Clearwater.

Q. Whereabouts at Clearwater?

A. At my saloon building at Clearwater.

Q. Who was present?

A. I don't know that there was anybody present, besides us two, I couldn't say that there was.

Q. State how long thereafter it was before he went to Helena for the purpose of making this entry in pursuance of this agreement?

A. Not to exceed four days.

Q. And you say that he was accompanied by Mr. Gillis, your cook? A. Yes, sir.

Q. You may state as to whether or not previous to his going you had a similar conversation with him?

By Mr. BICKFORD.—We object to that as leading.

Q. (Continued.) To a conversation that you had

(Testimony of Chauncey L. Griswold.)

with him in regard to what he was to receive, if anything, for his going to Helena?

By Mr. BICKFORD.—We object to the question for the reason it is leading.

A. I did, yes, sir.

Q. You may state what that conversation was, Mr. Griswold?

By Mr. WALSH.—We object to that because it is hearsay, and because it is irrelevant and it is also immaterial to any of the issues raised by the pleadings in this cause.

A. He told me that Mr. Cobban had agreed to pay him, to the best of my recollection, about two hundred and fifty dollars in consideration of his transferring his claim to him.

By Mr. BICKFORD.—We now move to strike out the answer for the reason that it is the conclusion of the witness, and further because it is not an accurate statement of a fact, but rather a conclusion of the witness as to the amount, which amount is not actually testified to by the witness.

Q. I understood you to testify before that you yourself had Mr. Gillis go to Mr. Cobban for the purpose of making some arrangement with him as to that matter.

By Mr. WALSH.—We object to the question as being leading. A. That is so.

Q. Why did you send him?

(Testimony of Chauncey L. Griswold.)

A. Because I wasn't authorized to pay or agree to pay to any person more than a hundred dollars for their claims.

Q. That was the extent of your authority, was it?

A. Yes, sir.

Q. Well, why is it—why was it that Mr. Gillis demanded more, or why was it that you sent him to Mr. Cobban to get more?

By Mr. WALSH.—That question is also objected to upon the ground that it is leading.

A. At about that time Mr. Gillis bought my place at Clearwater and was personally indebted to me, and I asked Mr. Cobban as a personal favor, to pay Mr. Gillis a little more than he did the others, and that I would go to Helena as a witness and lose my own time and would not charge anything for my own time; and with that understanding Mr. Cobban gave Mr. Gillis more for his claim.

Q. Did you say that Mr. Gillis went to Missoula?

A. He did.

Q. For the purpose of seeing Mr. Cobban?

A. No, sir; he saw Mr. Cobban at my place at Clearwater.

Q. And there the agreement was made with him?

By Mr. WALSH.—We object to the question as leading.

A. Yes, sir.

Q. And how long was it that Mr. Cobban was at Mis-

(Testimony of Chauncey L. Griswold.)

soula—at your place and had this conversation with Mr. Gillis, was it before or after he went to Helena for the purpose of making his filing?

By Mr. BICKFORD.—We object to that for the reason it is wholly immaterial.

A. To the best of my recollection it was about a week.

Q. About a week, you think?

A. Yes, sir; somewhere along there, about eight days.

Q. Did they go along—you didn't go with them, as I understand you?

A. When they went to make their findings?

Q. Yes, sir.

A. No, sir; I did not.

Q. Did you know of the fact of their subsequently going to Helena, and to the land office? A. I did.

Q. How long a time after their first trip to Helena was this?

A. About sixty days, I should think.

Q. Who went with them? A. I did.

Q. For what purpose did you go with them?

A. For the purpose of making final proof.

Q. Was that purpose accomplished?

A. It was, yes, sir.

Q. Were you in the land office at Helena when the final proofs were made?

A. I was one of the witnesses, or rather a witness, for each one of them.

(Testimony of Chauncey L. Griswold.)

Q. What do you know about the final receipts, where were they sent, if you know, or who were they given to?

By Mr. BICKFORD.—We object to that question as leading.

A. I believe that those final receipts were delivered to me, though I am not positive as to that fact, but that is my recollection of the matter.

Q. I will ask you, Mr. Griswold, if previous to your going to Helena on this occasion, you had seen Mr. Cobban at Ovando?

By Mr. BICKFORD.—We object to that as leading.

A. I had, yes, sir.

Q. When was that, Mr. Griswold?

A. On the 11th day of July.

Q. Of what year was that? A. 1899.

Q. When was it that you went to Helena, how long thereafter?

A. Well, I left Ovando that day, to the best of my recollection, and drove from there to Missoula.

Q. I mean how long after that did you go to Helena with these two men?

A. I didn't go with both, Gillis was at Missoula, and we picked up Mr. Cloutier at Garrison.

Q. I mean how long thereafter did you meet these two men at Helena?

A. To the best of my recollection, it was about the first of August. I had to remain in Helena some little

(Testimony of Chauncey L. Griswold.)

time during the time—I was a witness in several cases there.

Q. You may state if any papers were delivered to you by Mr. Cobban while you were at Ovando at the time you have stated. A. Yes, sir.

Q. What were those papers?

A. I afterwards found out that they were warranty deeds.

Q. All made out? A. Yes, sir.

Q. Who were the grantors therein named?

By Mr. WALSH.—The question is objected to because the deeds are the best evidence as to who were the grantors therein.

A. John Gillis and Charles Cloutier.

Q. These men that you refer to? A. Yes, sir.

Q. And the grantee, who was the grantee?

A. R. M. Cobban.

Q. To whom were those papers delivered?

A. They were delivered to me in Helena.

Q. In where? A. In Helena.

Q. Delivered to you in Helena, did you say?

A. Yes, sir; they executed the deeds there and they were turned over to me there.

Q. In the first place I ask for information as to when Mr. Cobban delivered those deeds to you.

A. Delivered those deeds to me in Ovando.

Q. He delivered them to you? A. Yes, sir.

Q. In whose possession were they from the time

(Testimony of Chauncey L. Griswold.)

they were so delivered until they were afterwards used in Helena? A. They were in my possession.

Q. All the time? A. Yes, sir; all the time.

Q. What did you do with those deeds, or what was done with those paper writings after you got to Helena?

A. They were signed and executed in a proper manner and delivered to me.

Q. Signed and executed by whom?

A. By Gillis and Cloutier.

Q. Whereabouts? A. In Helena.

Q. In whose office?

A. In Frank Reese's office.

Q. Mr. Frank Reese, the lawyer?

A. Yes, sir; he was a notary public, I believe, too.

Q. They were signed and executed by these men and delivered to you, you say? A. Yes, sir; they were.

Q. How long a time were after these men, with you left the United States land office?

A. Well, not to exceed six hours.

Q. On the same day? A. Yes, sir.

Q. On the delivery of the deed by Mr. Cloutier to you on that day and at that place, what did you do?

A. I paid Mr. Cloutier a hundred dollars.

Q. In what form? A. In currency.

Q. Whose money was that? A. Mr. Cobban's.

Q. Where did you get the money?

A. I got it in cash from Mr. —— in a check from Mr. Cobban, at Ovando.

Q. For what purpose?

(Testimony of Chauncey L. Griswold.)

A. For the purpose of making this payment at the land office and to Mr. Cloutier.

Q. Who paid the expense—who made the payments for this land that Mr. Cloutier afterwards deeded?

A. In the land office?

Q. Yes, sir. A. I did.

Q. And the expenses, who paid them?

A. Yes, sir; I did.

Q. To your knowledge did Mr. Cloutier pay anything at all? A. No, sir.

Q. Do you know that he did not?

A. I know that he did not, that is of the actual expenses.

Q. Or for the purchase price of the land?

A. No, sir.

Q. Whereabouts were you when you paid this one hundred dollars to Mr. Cloutier?

A. That was in one of the private rooms of Harry Zayas' liquor store on Broadway—not Broadway, but Main street.

Q. Who else was present besides yourself and Mr. Cloutier? A. Mr. Gillis was there.

Q. Was he there present? A. Yes, sir.

Q. And saw the payment? A. Yes, sir.

Q. Now, in regard to Mr. Gillis, was the money paid for his deed there?

By Mr. WALSH.—We object to the question as leading.

(Testimony of Chauncey L. Griswold.)

Q. I mean for the land that he afterwards conveyed?

By Mr WALSH.—We object to the question as leading.

A. Yes, sir.

Q. To Mr. Cobban, who paid that money?

A. I did.

Q. You paid it for him? A. Yes, sir.

Q. How much of the expense connected with that entry and final proof did you pay?

A. The entire expenses.

Q. Who was it, if you know, that paid the extra amount over the hundred dollars, to Mr. Gillis, who paid him that? A. I did.

Q. For his services? A. Yes, sir.

By Mr. WALSH.—We object to the question as being leading.

Q. I mean did you pay Mr. Gillis?

A. I paid Mr. Gillis all the money that was due him under the agreement.

Q. How much did you pay him under the agreement you have already referred to?

A. To the best of my recollection I paid Mr. Gillis about two hundred and fifty dollars.

Q. Where did you pay him this sum of two hundred and fifty dollars, Mr. Griswold?

A. In a private room of Harry Zayas' liquor store, on Main street, in Helena.

(Testimony of Chauncey L. Griswold.)

Q. At the same time and place that you have referred to when you made the payment to Mr. Cloutier?

By Mr. WALSH.—We object to the question as being leading.

Q. At the same time and place? A. Yes, sir.

Q. Who was present when you made this payment to Mr. Gillis, if anyone?

A. There was no one else present.

Q. In what shape and form was this two hundred and fifty dollars paid, Mr. Griswold?

A. It was paid in currency.

Q. And on what day was this—the day that the final proof was made?

By Mr. BICKFORD.—That question is objected to as being leading.

A. The day that the final proof was made, yes.

Q. The day that the final payment was made—that you refer to?

By Mr. BICKFORD.—That question is objected to as being leading.

A. Yes, sir.

Q. What was it that you said after paying all the money for the land that Mr. Gillis received and paying all the expenses that was given him, over and above all that you said you paid him—two hundred and fifty dollars—was that it?

By Mr. BICKFORD.—Objected to as leading.

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. Now, I ask you why it was that you paid him that amount of money?

A. It was by Mr. Cobban's direction to me.

Q. And for and in consideration of what, Mr. Griswold?

A. His transfer and his conveyance of the land to Mr. Cobban.

Q. And in pursuance of what, if anything?

By Mr. BICKFORD.—We object to that question for the reason it is irrelevant and immaterial.

A. With the understanding, under the agreement between Mr. Cobban and himself.

By Mr. WALSH.—We object to that also for the reason that it calls for a conclusion and not for a fact from the witness.

Q. And the agreement was made how much prior to that?

By Mr. WALSH.—We object to that for the reason it calls for an opinion from the witness.

A. About sixty days previous to that.

Q. And before or after the first coming of Gillis to Helena? A. Before his first coming to Helena.

Q. And the description of the land, I will call your attention to page 6 of the printed record—of the printed bill of complaint, which was conveyed under the circumstances that you have now testified to, are what, the descriptions, what are they?

(Testimony of Chauncey L. Griswold.)

A. The Charles Cloutier claim was the southwest quarter of the northeast quarter, and the north half of the southeast quarter, and the southeast quarter of the southeast quarter of section 12, township 14 north of range 13 west.

Q. Are you able to state—

By Mr. BICKFORD.—I will move to strike out that last answer of the witness, for the reason that it appears to be the testimony of counsel instead of the witness.

Q. Are you able to state now whether or not that is the true and exact description of the land that was so conveyed? A. Yes, sir.

By Mr. BICKFORD.—I also move to strike out the last answer of the witness, because it is an answer to a leading question, and upon the further ground that the deed is the best evidence of the facts stated by the witness.

Q. Begin on page 6. Calling your attention to the John Gillis—give us the exact description of that land that was conveyed to your knowledge.

By Mr. WALSH.—We object to that for the reason it is not the best evidence. The deeds themselves being the best evidence of that fact.

A. The south half of the northwest quarter, and the north half of the southwest quarter of section 12, township 14 north of range 13 west.

(Testimony of Chauncey L. Griswold.)

Q. I will now call your attention to page 41 of the printed record—printed bill of complaint, to the case of Dan McGillis. Please state, if you know, who Dan McGillis is? A. I do know him.

Q. How long have you known him?

A. Why between four and five years.

Q. What does he do for a living?

A. Well, he is, I think—follows mining at the present time for a living, and working in the mines.

Q. What did he do before that?

A. He worked in the woods as a common laborer, I think.

Q. Is he also known as a "lumber-jack"?

A. Yes, sir, he worked for me.

Q. Do you know of his financial standing, Mr. Griswold?

By Mr. WALSH.—We object to that as being immaterial to any of the issues raised by the pleadings in this case.

A. I do.

Q. What is it?

By Mr. WALSH.—We object to that as being immaterial to any of the issues raised by the pleadings in this case.

A. I know that he was not a man of means.

Q. You may state whether or not, if you know, whether he has any money at all other than what he earns from day to day?

(Testimony of Chauncey L. Griswold.)

By Mr. BICKFORD.—We object to that as being immaterial to any of the issues raised by the pleadings in this case.

A. He has not to the best of my knowledge.

Q. Do you know of the fact of Mr. Dan McGillis taking up and making a claim under this Stone and Timber Act?

A. Only what he has told me himself and what I have seen from the records.

Q. Did you have a conversation with him on the subject? A. I did.

Q. When and where was that conversation held?

A. It was about a year ago in front of the Higgins' block in Missoula.

Q. What was the conversation?

By Mr. BICKFORD.—We object to that, if your Honor please, as being immaterial, irrelevant and incompetent and hearsay, and as being a declaration made by the grantor after he had parted with the title to the land, and it is therefore incompetent, irrelevant and immaterial to any of the issues in this case.

A. He was talking about taking up a claim; and I asked him about his claim, and told him where it was, and I asked him if Mr. Cobban had furnished the money, and he said he had.

Q. Did he state to you at that time and place why he took up the land? A. Yes, sir.

Q. What reason did he give, Mr. Griswold?

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We object to that, if your Honor please, as being immaterial, irrelevant and incompetent and hearsay, and upon the further ground that it is a declaration made by the grantor after he had parted with the title to the land, and it is therefore incompetent, irrelevant and immaterial to any of the issues in this case.

A. His reason was that he might secure the hundred dollars in excess of the expenses.

Q. And what, if anything, was said by him as to whether or not he received that money?

A. He said that he did.

Q. Said what?

By Mr. WALSH.—We object to that, if your Honor please, as being immaterial, irrelevant and incompetent and hearsay, and upon the further ground that it is a declaration made by the grantor after he had parted with the title to the land, and it is therefore incompetent, irrelevant and immaterial to any of the issues in this case.

A. He said that he had received it.

Q. Said that he had received the hundred dollars?

A. Yes, sir.

Q. Are you able to state from the conversation you had with him when he was telling you of the particular description of the land that he took up, whether or not the description contained on page 41 of the bill of complaint is a true description of the land mentioned?

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We object to that, if your Honor please, as being immaterial irrelevant and incompetent and hearsay, and upon the further ground that it is a declaration made by the grantor after he had parted with the title to the land, and it is therefore incompetent, irrelevant and immaterial to any of the issues in this case; and upon the further ground that it is not the best evidence.

A. I know that he told me it was in section 6 of township 15, north of range 15 west; or rather, whether he gave me the exact description of the land or not, I don't know; I don't know whether he knew it himself or not.

Q. Now, Mr. Griswold, you stated yesterday that you told several persons and caused it to be generally known throughout the region where you lived that men and women could make a hundred dollars clear by taking up entries under the Stone and Timber Act, if they would at once, after obtaining final receipt transfer the same to Mr. Cobban. I wish you would be kind enough now, if you are able, to state and give the names of the persons that you said this to?

By Mr. BICKFORD.—We object to that, first, for the reason that the question is leading; second, because it does not accurately state the testimony of the witness as given on yesterday; third, because it is irrelevant and immaterial and does not prove or tend to prove any of the issues in this case.

(Testimony of Chauncey L. Griswold.)

A. I told it to Thomas B. Bryan, Lelia T. Bryan, Edward Lehman, Albert Jemison, Charles B. Sperry, Thomas H. McConnell, L. A. Wells, Lizzie Wells, John Gillis, Charles Cloutier, and I presume, to others. I know that I told those parties.

Q. They were altogether at the same time, or was it different times and in different places?

A. Various times at various places.

Q. After you told these parties and others that you say you might have told, did you have any difficulty whatever in finding persons that were willing to make those entries, and do this work in pursuance of this agreement?

By Mr. WALSH.—We object to the question because it is leading.

A. No, sir, I did not—I couldn't make—couldn't find the claims that parties wanted to take up under these conditions.

Q. You mean that you couldn't find enough claims to satisfy the persons?

By Mr. WALSH.—Objected to as leading.

A. No, sir, I couldn't; in a great many instances, they offered me twenty-five—sometimes fifty per cent, if I could find the claims for them.

By Mr. WALSH.—We object to that as not being responsive to the question, and move to strike the answer of the witness out for that reason, and further because it is irrelevant and immaterial.

(Testimony of Chauncey L. Griswold.)

Q. Can you recall now the names of persons that made that offer to you?

By Mr. BICKFORD.—We object because it is immaterial, irrelevant and incompetent, and for the further reason that it is leading.

A. Mr. Ed. Low, that lived at Sunset, offered to pay me one-half he got out of a timber claim, if I put him in the way of disposing of this timber; and different parties in Missoula offered me the same thing.

Q. You may state, Mr. Griswold, if you at any time had a conversation with Mr. Cobban on that subject?

A. I did.

Q. When and where was that?

A. That was at Clearwater.

Q. What was that conversation?

By Mr. BICKFORD.—We object for the reason that the testimony sought to be adduced is irrelevant and immaterial.

A. I told Mr. Cobban that there were some of the parties that wanted more than a hundred dollars, and he said that he couldn't give it, and at the same time told me that he could send more people from Missoula that were willing to go and take up these claims for a hundred dollars—more than I could possibly find claims for.

Q. Such being the case, Mr. Griswold, as you I think testified, I desire to ask you the question whether you ever did find it necessary or if anything was done or

(Testimony of Chauncey L. Griswold.)

did you in any way induce anybody to take up these claims under this agreement?

By Mr. WALSH.—Objected to as being immaterial, irrelevant and incompetent and leading.

A. I never did.

Q. They came to you, did they?

A. They would come to me.

Q. In your best judgment, Mr. Griswold, during the life of this contract, when you were working under Mr. Cobban, how many men and women came to your house for the purpose of trying to get a location in order that they might make this hundred dollars?

By Mr. WALSH.—Objected to as being irrelevant, incompetent and immaterial, and leading.

A. I couldn't enumerate them; there was a great number that came there and they haven't taken up claims yet and I couldn't furnish them with the claims.

Q. In other words, the supply was not equal to the demand?

By Mr. WALSH.—We object to the question as being leading.

A. No, sir.

Q. Now, you say, Mr. Griswold, that these dealings under this contract between your Mr. Cobban continued from the time of its execution until the next following winter.

By Mr. BICKFORD.—That is objected to also as being leading.

(Testimony of Chauncey L. Griswold.)

A. Yes, sir.

Q. I wish you would state how it was that the work ceased under that contract, and when it was?

By Mr. BICKFORD.—Objected to as being immaterial, irrelevant and incompetent, and not within any of the issues in this cause.

A. I think the work of selecting and locating claims was finished some time in October, possibly it may have been in November, and then I had other work to do in going on and posting notices on unsurveyed land where the title had to be perfected, and it could be made good.

Q. Why did the work stop in October, Mr. Griswold?

A. Well, Mr. Cobban told me that Mr. Clark had refused to take any more land.

By Mr. WALSH.—We move to strike out the statement of the witness concerning what Mr. Cobban said, for the reason that the same is hearsay.

Q. Did Mr. Cobban state to you at that time and tell the reason why the defendant in this case would not take any more land?

By Mr. BICKFORD.—That question is objected to as leading, and for the further reason that it is immaterial, irrelevant, incompetent and hearsay.

A. I don't think that he did give me any reason why that he wouldn't take any more land.

Q. Where was he when he told you that?

A. In his office in Missoula.

Q. Who was present?

(Testimony of Chauncey L. Griswold.)

A. I don't think there was anybody present.

Q. Did you or did you not make any further locations after that conversation, in which Mr. Cobban told you at that time and place that Mr. Clark would not take any more lands?

Mr. BICKFORD.—We object to that on the ground that it is leading.

By Mr. WALSH.—We further object to the testimony concerning what Mr. Cobban said, and move to strike out the testimony given by the witness in relation to the same, upon the ground that it is incompetent, irrelevant and immaterial to any of the issues in this case, and upon the further ground that it appears to be a declaration of the grantor after he had parted with the title, and for that reason it is immaterial, irrelevant and incompetent.

Q. Now, I ask you what work you did under that contract with Mr. Cobban, after that conversation in Missoula.

A. I had to go and post notices on unsurveyed lands, or rather land that Mr. Cobban had located scrip on; that is, land that he had taken under the Scrip Act.

By Mr. BICKFORD.—We now move to strike out the answer of the witness, upon the ground that it is irrelevant and immaterial.

A. (Witness continuing.) After the notice had been posted there thirty days, I had to make another visit

(Testimony of Chauncey L. Griswold.)

to see that the notices remained on the land for thirty days, and also to make affidavit to that fact.

Q. Did you at any time during the life of this contract, while these entries were being made under the Stone and Timber Act, take any personal charge of advertising notices in the different papers?

By Mr. BICKFORD.—We object to the question because it is leading.

A. I did not.

Q. Do you know who attended to that?

A. The recorder and the land office, to the best of my knowledge saw to the advertising.

Q. And that was a part of the expense of the proceeding from the beginning when the final proof was made and put in?

By Mr. WALSH.—We object to that as leading.

A. Yes, sir.

Q. Now, then, you had some trouble or misunderstanding with Mr. Cobban when it came to an account or settlement under this contract, did you not?

By Mr. BICKFORD.—Objected to as leading, and for the further reason that it is immaterial and irrelevant.

A. Yes, sir.

Q. When was that?

A. It was about a year ago now, to the best of my recollection.

Q. That was in the winter following this fall, was it?

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

By Mr. BICKFORD.—We object to the questions as leading.

A. (Witness continuing.) No, it seems to have been last spring.

Q. Last spring?

A. Yes, sir, that is when the misunderstanding started.

Q. And that was last spring, you say?

A. Yes, sir, the spring of 1901.

Q. Had your relations with Mr. Cobban previous to that time been pleasant?

By Mr. BICKFORD.—We object to the question because it is irrelevant and immaterial, and further that it is leading. A, Yes, sir.

Q. No difficulty? A. None at all.

Q. Did you have a difficulty last spring?

A. We did, yes, sir.

Q. What was the occasion of that?

A. Well, I demanded a settlement under the contract and we had some little misunderstanding, that started it.

Q. You wanted pay for your services?

A. Yes, sir.

Q. Did you call for a statement of the account?

A. I did.

Q. Did you receive one? A. I did.

Q. Where is that statement, I mean the first statement that you received?

(Testimony of Chauncey L. Griswold.)

A. I cannot tell you, sir, where it is.

Q. Have you not got it in your possession, that is a statement?

A. I have, yes, sir, a small one here, but it is only a portion of the statement.

Q. A portion?

A. Yes, sir, running up this small amount of the account between Mr. Cobban and myself.

Q. You may state, Mr. Griswold, as to whether or not the paper which you now have in your possession was the paper which you received from Mr. Cobban, and all of it when you first made a demand for a settlement under the contract?

By Mr. WALSH.—I object to that as being leading.

A. No, sir, it is not.

Q. Well, what is it?

A. Well, it is an itemized statement running over a portion of the transaction between Mr. Cobban and myself under this contract. This little statement that I have here is running from the 22d day of May, 1899, up to the 18th day of September of the same year.

Q. Was that made and delivered to you prior to your demand for a final settlement?

By Mr. WALSH.—Objected to as leading.

A. Yes, sir.

Q. It was? A. Yes, sir.

Q. When was that delivered to you, Mr. Griswold?

(Testimony of Chauncey L. Griswold.)

A. To the best of my recollection sometime about the 18th to the 20th of September, 1899.

Q. At that time there was no difficulty between you and Mr. Cobban, was there? A. No, sir.

Q. Was this—did this paper come from Mr. Cobban's office?

By Mr. BICKFORD.—We object to the question as being leading.

A. Yes, sir.

Q. And was furnished to you by whom?

A. By Mr. A. E. Pound.

Q. Who was Mr. Pound?

A. He acted in the capacity of bookkeeper for Mr. Cobban at that time.

Q. You may state as to whether or not there was any question made by you in regard to this first statement that you received; weren't you satisfied with it?

By Mr. BICKFORD.—We object to that as being leading, and also on the further ground that it is irrelevant and immaterial.

A. Yes, sir.

Q. Does this statement that you received from Mr. Cobban's office, which you say you have, for services rendered and disbursements made under the contract that has been introduced in evidence in this case?

By Mr. BICKFORD.—Objected to as leading.

A. It is in full, as far as it went.

(Testimony of Chauncey L. Griswold.)

Q. And what were these disbursements and different items, what did they have reference to?

By Mr. WALSH.—We object to the question because it calls for testimony which is not the best evidence, the paper itself being the best evidence as to what the items referred to are.

A. The terms of the contract were such that Mr. Cobban was to leave in my—

By Mr. WALSH.—We object to the witness giving any of the terms of the contract, for the reason that the contract itself is the best evidence of its contents.

A. The terms of the contract are that Mr. Cobban was to leave in my possession a reasonable amount of money to defray the expenses of parties who might be going to Helena or Missoula, to make application to purchase; also for the purpose of securing options on desirable pieces of land in that vicinity, and these credits are for moneys that I paid out for those purposes.

By Mr. BICKFORD.—We move to strike that out, because the evidence of the witness is not the best evidence of the facts stated, and that the contract itself is the best evidence of its contents, and for the further reason that such testimony is irrelevant and immaterial.

By Mr. MAYNARD.—If your Honor please, I offer in evidence this paper, which is the paper now identified by the witness as the statement which was furnished to him by Mr. Cobban at the time and place named by him for moneys furnished under and by virtue of the con-

(Testimony of Chauncey L. Griswold.)

tract which he had made the preceding spring with Mr. Cobban.

By the EXAMINER.—That will be marked "Exhibit 'C,' Complainant," and I see the paper is in a dilapidated condition, and the stenographer will be instructed to make a copy of it, which I will certify to and keep the original paper as an Exhibit in the case.

By Mr. BICKFORD.—To this paper being introduced in evidence, if your Honor please, we interpose the following objections: First, that it does not appear from the testimony of the witness to have been furnished to the witness by Mr. Cobban, but on the contrary was furnished to the witness by one Pound; second, because the statement itself does not appear to have any relation to the transactions testified to by the witness, Griswold, and next, because various items mentioned in the statement may, from the statement itself, have reference to any transaction other than the transaction which the witness has been testifying concerning, while upon the witness-stand. Again, because it is irrelevant and immaterial, and does not prove or tend to prove any issue raised by the pleadings in this cause. We might go further and say, that we object for the further reason that the paper appears to be mutilated and is not now in the condition that it was when it was alleged to have been given by Mr. Pound to the witness.

(The said Exhibit "C" reads as follows:)

(Testimony of Chauncey L. Griswold.)

Complainant's Exhibit "C."

C. L. Griswold in account with R. M. Cobban.

May	22.	To Check.... 100		
		Cash..... 50		150
July	10.	To Check....		150
	13.	To Check.... 140		140
	29.	To Check.....		50
	1.	To Cash....		270
	1.	To Cash..... 1640		
	11.	To Cash.... 1000		
	11.	To Cash.... 100		
	11.	To Cash.... ....34.50		
	16.	To Ex. charge on Gillis Lands.....33.65		
Sept.	10.	To Check Aug. 31.... 50		
	10.	To paid order to J. & Faust 8/19.....100		
		To Cash..... 25		
		To Check to Kilborn		50
	12.	To Check....		40
	13.	To Check....		25
	16.	To Check....		20
	18.	To Check date 21st....		150

Contra

July	22.	By cash on certain claims.....		135
Aug.	8.	By Gillis Lands..... ...800		
		By Coutere Lands.....500		1300
	11.	By paid Kilborn.....		50
	16.	By Ex. on O-L-C-W Claims.....		270
	16.	By Services on certain claims.....		34.50

(Testimony of Chauncey L. Griswold.)

16.	By pd. Osler Muchenira.....	20
16.	By Ths. Pelkey proof.....	424.75
	By Ths. Pelkey cash....	20
	By F. B. Chatten proof.....	424.75
	By Expense Helena E. M. Gagnon....	35
	By Expense Helena Ed. Dodd.....	45
Sept. 14.	By Exp. Helena on Bryan & Catlin proof.....	12.50
18.	By Estimate per I B of this date....	1306.50

(Endorsed on the back thereof as follows:) Complainant's Exhibit "C." Henry N. Blake, Examiner.

I, Henry N. Blake, Examiner in Chancery, hereby certify that I have compared the foregoing with the original exhibit "C," complainant, and that the same is a true and correct copy thereof.

HENRY N. BLAKE,
Examiner in Chancery.

Q. I will ask you, Mr. Griswold, if this statement of account which was furnished you and now known as Exhibit "C," is in precisely the same condition as it was when you received it from the office of Mr. Cobban, with the exception of a few pencil marks in lead pencil on the back of it, which are memoranda, and in addition to the fact that it is very much worn by having been carried in your pocket?

By Mr. WALSH.—We object to the question because it is leading.

A. Just in the same condition.

(Testimony of Chauncey L. Griswold.)

Q. And what are these pencil marks here, Mr. Griswold?

A. The pencil marks are something that the Collins Land Company telephoned me from Helena to Missoula in regard to lands in the Bitterroot Valley.

By Mr. WALSH.—We move to strike out the answer of the witness as being irrelevant and immaterial.

Q. Has that Lolo matter anything to do with these lands here in question?

A. Nothing at all; it is entirely foreign to it.

Q. You seem to have carried this in your pocket ever since. A. Yes, sir.

Q. And that accounts for its torn condition?

A. Yes, sir,

Q. Now, Mr. Griswold, I will ask you if in that statement which is furnished you by Mr. Cobban, there are any charges written thereon which embrace the money that you paid to any of these witnesses in pursuance to an agreement that they were to be paid?

By Mr. BICKFORD.—We object to the question as being leading, and for the further reason that the paper itself having been introduced in evidence, is the best evidence of the facts contained in the paper.

A. Yes, sir.

Q. Will you please read these items?

A. Well, here is my two checks for a hundred dollars, and cash fifty dollars; a portion of this money was paid me to defray the expenses of the different parties

(Testimony of Chauncey L. Griswold.)

in securing lands and one thing and another in accordance with the terms of the contract, and on July 11th there is a check of $1640. The same date a check for a thousand dollars, and the same date a check for a hundred dollars, all of which was to be used in acquiring title to this land with the exception of a hundred dollars which was given to me to defray my own personal expenses.

Q. I call your attention to that portion of the statement so furnished you, relative to the Pelkey matter there. What does it say there?

By Mr. BICKFORD.—Well, we object because the writing itself is the best evidence of what it contains.

A. Mr. Cobban gives me credit on this paper, dated August 16th, to Thomas Pelkey, proof, $ 424.75.

Q. Four hundred and twenty-four dollars and seventy-five cents? A. Yes, sir.

Q. Explain, if you please, what you did with that four hundred and twenty-four dollars and seventy-five cents?

By Mr. BICKFORD.—Objected to because it is irrelevant and immaterial to any of the issues in this case.

A. I paid four hundred and one dollars of it into the land office at Helena that is, to the receiver of public moneys. To the best of my recollection I gave to Mr. Pelkey, to defray his expenses going to and from Missoula to make the final proof, the balance of it.

(Testimony of Chauncey L. Griswold.)

Q. You will notice—I call your attention to the Gillis charge there. Read from the paper, if you please?

A. Under date of August 1st, I think it is, he gives me credit for Gillis lands, eight hundred dollars.

Q. What was that?

A. That was in payment to the receiver of public moneys of four hundred and one dollars, and the balance of it was paid to Mr. Gillis.

Q. Four hundred and one dollars of that you say you paid to the receiver, and four hundred dollars went to Mr. Gillis, and was that the money that you have already testified to as having been paid to Mr. Gillis?

A. Yes, sir.

Q. Are there any other charges on that paper, either debits or credits, wherein is embraced moneys which you used in carrying out the agreement with these men that if they would take up claims you would pay them?

By Mr. WALSH.—I object to the question, because it is leading, and further because it is irrelevant and immaterial.

A. I see here on July 22d, By Cash on certain claims, $135.00, that Mr. Cobban gives me credit for. Also, on August 1st, by Cloutier, lands $500.00. On August 16th, services to certain claims, $34.50, to pay Oscar Muchern, $20.00. The same to Thomas Pelkey, proof $424.75; the same to F. B. Chattin, proof, $424.75. Expense of E. M. Gagnon, $35.00; Ed. Dodd, $45.00; Expenses to Helena on Bryan and Catlin proof, $12.50.

(Testimony of Chauncey L. Griswold.)

Q. Are these parties whose names you have just read the same parties about whom you have testified?

A. They are with the exception of Mrs. Gagnon, her name has not been mentioned.

Q. Did Mrs. Gagnon have anything to do with this?

A. No, she didn't get her claim, it was contested.

Q. In the following spring you desired that Mr. Cobban furnish you with another statement, did you?

By Mr. BICKFORD.—We object to that as being leading.

A. Yes, sir.

Q. It would give a statement, I suppose, from the termination of that up to the following spring?

By Mr. WALSH.—We object to that as being leading.

A. No, sir, I demanded a statement running from May 22d, the date of our contract, until the completion of it, until he said that he didn't want any more timber. This was in a mutilated condition, and it wasn't very satisfactory, and I wanted to get it in different shape.

Q. What did he say when you made that demand?

By Mr. BICKFORD.—We object to that because it is a declaration of the grantor, Cobban, long after he had parted with his interest in the property, and it is therefore irrelevant, immaterial and hearsay testimony.

A. Well, he said I had statements from time to time, and had access to his books, and I could see his books at any time, and he refused to give me a statement. Subsequently he did say that he would exchange

(Testimony of Chauncey L. Griswold.)

statements with me; that I should make out a statement of my claim against him, and that he would make out his statement, and we would exchange. I told him at that time that I could not do it, not knowing for what claims he had given me credit, as this Exhibit "C," on September 18th, gives me credit "Estimates per I. B., to this date, $1,306.50," and I had no way of knowing what timber that referred to, and for that reason I wanted a more explicit and itemized statement.

Q. Did you finally get it?

A. I did get it, yes, sir.

Q. When did you receive that statement?

A. I believe it was in the early part of this year, to the best of my recollection.

Q. Was that statement satisfactory?

A. No, sir.

Q. It was not? A. No, sir.

By Mr. BICKFORD.—We object to that, and move to strike out the answer of the witness, for the reason it is immaterial and irrelevant.

Q. What did you do with this statement?

A. I took it to my home in Missoula, and took my time and examined it item by item, and marked several and took them to Mr. Cobban and asked for an explanation of what they meant, and why they were charged to me. He told me at that time that he didn't have time to go over his books and see what the charges were, but that he would write it out, or have it written out, and hand it to me in the evening or the next day, and he did

(Testimony of Chauncey L. Griswold.)

so; and the explanation of the items was not satisfactory, and I then took the matter to Mr. Dixon, an attorney in Missoula. He took it to Mr. Cobban, and Mr. Cobban wouldn't give him any satisfaction in any way, and about that time Mr. Dixon had to come to Helena as a representative from our county, and he turned my matters over to Mr. Duncan, and Draffen.

Q. Were they also attorneys?

A. They are attorneys, yes, sir, practicing law, and I think they saw Mr. Cobban once or twice in regard to the matter, and they couldn't get any satisfaction; he wouldn't agree to settle or look over the accounts or anything of the kind, and maintained that his books were correct in every part, and therefore I directed them to bring suit against him for the payment of my demands.

By Mr. BICKFORD.—Now, we move to strike out all the answer of the witness, for the reason that the same is not responsive to the question propounded by counsel, and for the further reason that it is irrelevant and immaterial to any issue raised by the pleadings in this cause.

Q. This statement that you finally received from Mr. Cobban's office, and which you say wasn't satisfactory, where is that statement now, Mr. Griswold?

A. I couldn't tell you, sir; it was turned over to Mr. Cobban's attorneys in my civil case that we had in Missoula.

Q. Then you did have a civil case in Missoula?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir.

Q. Is that suit pending now? A. No, sir.

Q. Is it ended, then?

A. Yes, sir, it was settled by mutual agreement.

Q. You say that you sued Mr. Cobban?

A. Yes, sir.

Q. How much did you sue him for?

By Mr. WALSH.—We object to that as being immaterial and irrelevant to the issues in this case, and further, the complaint in that case is the best evidence of what he sued Mr. Cobban for.

Q. How much did you yourself claim from Mr. Cobban for services under this contract?

By Mr. WALSH.—We object to that as being immaterial and irrelevant to the issues in this case, and further, the complaint in that case is the best evidence of what he sued Mr. Cobban for.

A. Something about thirty-four hundred dollars, I believe it was.

Q. Three thousand four hundred dollars?

A. Yes, sir.

Q. And this suit was brought in the District Court of Missoula County, was it not?

A. Yes, sir, it was.

Q. You may state as to whether or not anything was done to your own knowledge, after suit was brought, towards its prosecution?

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We object to that question for the reason that the record in the case referred to is the best evidence of what was done therein?

A. Yes, sir.

Q. What was done?

By Mr. WALSH.—We object to that question for the reason that the record in the case referred to is the best evidence of what was done therein.

A. Mr. Cobban or his attorneys had the case put over one term of Court, and the next term it came up, and Judge Webster appointed a referee. He said there was too much of it to take before a jury; it would be too long and drawn out too indefinitely to have a jury trial, and he appointed Mr. Murray, an attorney of our town, to take the testimony.

Q. Did Mr. Murray act as referee in the case?

A. He did, yes, sir.

Q. Was testimony taken before him in your suit against Mr. Cobban? A. Yes, sir.

Q. Was the testimony completed prior to the settlement, or was the settlement made while the testimony was being taken before the referee?

By Mr. BICKFORD.—We object to the question as being leading.

A. No, sir, the testimony was not all in; it was settled during the time that we were taking the testimony.

Q. Did you receive money fom Mr. Cobban in that settlement?

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We object to the question as being leading.

A. I did.

Q. How much did you receive?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial to any of the issues raised by the pleadings in this cause.

Q. You say you did receive—made a settlement with Mr. Cobban and he paid you money?

A. Yes, sir.

Q. Now, then, I will ask you, Mr. Griswold, if certain conditions were exacted and were a part of the settlement?

By Mr. BICKFORD.—We object to that as leading.

A. Yes, sir.

Q. They were? A. Yes, sir.

Q. You may state what those conditions were, Mr. Griswold.

By BICKFORD.—We object to that as being wholly irrelevant and immaterial, if your Honor please.

A. The conditions were that I should deliver to Mr. Cobban a copy of the contract that I had in my possession in Mr. Cobban's own handwriting, together with this itemized statement of our account, and some of the records of the Court, I don't remember just what they were, but something of that kind.

Q. A settlement was made by his paying you money was it? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. And your agreeing to deliver over to him the original contract that had been made between you and Mr. Cobban, and which formed the basis of the suit which you brought against him?

By Mr. BICKFORD.—That is objected to as leading.

A. Yes, sir.

Q. And that you were also to deliver to him this itemized statement which you say he had furnished you?

By Mr. RICKFORD.—That is objected to as leading.

A. Yes, sir.

Q. And I ask you as a matter of fact, if they were delivered, Mr. Griswold? A. Yes, sir.

Q. There was something about the files of the Court too, was there not? A. Yes, sir.

Q. And when was this settlement made and the suit discontinued?

A. Well, it was during the time of the taking of the testimony; I couldn't give you the date; I don't remember the exact date.

Q. Well was it in June of last year?

By Mr. BICKFORD.—We object to that as being leading.

A. I believe it was in June, yes, sir.

Q. You may state, Mr. Griswold as to whether or not while you were engaged in taking testimony under the reference that had been ordered by the district judge, whether the offer to settle and the settlement was made somewhat speedily and to your surprise?

(Testimony of Chauncey L. Griswold.)

By Mr. BICKFORD.—We also object to that as being leading.

A. It was.

Q. Mr. Griswold at the time and just prior to this settlement, can you state as to whether or not a Grand Jury in the District Court for the District of Montana had been summoned?

By Mr. BICKFORD.—We object to that for the reason that the record is the best evidence of that fact.

A. To the best of my recollection there had been a Grand Jury summoned.

Q. To your knowledge, was it then generally understood in Missoula that this very matter was to be investigated by the government before the Federal Grand Jury in Helena?

By Mr. WALSH.—That is also objected to as being leading.

A. Yes, sir.

By Mr. BICKFORD.—And objection is made upon the further ground that it is incompetent.

Q. Do you know as a matter of fact that shortly thereafter the Federal Grand Jury did convene in the city of Helena, in the District of Montana?

By Mr. WALSH.—We object to that because it is leading, and because the record of the United States Court is the best evidence as to that matter.

A. Yes, sir, I know that there was a Grand Jury in session.

(Testimony of Chauncey L. Griswold.)

Q. And you appeared there before the Grand Jury as a witness?

By Mr. BICKFORD.—Objected to as leading.

A. I did.

Q. And as a result of that investigation before the Grand Jury Mr. John B. Catlin was indicted for subornation of perjury—Robert M. Cobban, I mean, Catlin, and others.

By Mr. WALSH.—That is objected to as being incompetent, irrelevant and immaterial, and leading.

A. Yes, sir.

By Mr. MAYNARD.—We at this time would like and do make a demand upon you gentlemen, as representing the defendant in this case to furnish us with that itemized statement of account which the witness says was delivered to Mr. Cobban, or his attorneys, by him, at the time of the settlement of the suit mentioned by the witness and which is now out of his possession and in yours; and we would like to have that incorporated in the written demand which has already been made upon you.

By Mr. WALSH.—We will not make any objection to that.

By the EXAMINER.—By agreement of counsel for the respective parties, the further taking of testimony was continued until December the 2d, 1901, at ten o'clock A. M.

(Testimony of Chauncey L. Griswold.)

The witness now upon the stand, Mr. Griswold, will be required to appear here at that time without any further service of subpoena upon him.

HENRY N. BLAKE,
Examiner in Chancery.

December 17th, 1901, two o'clock P. M.

Hearing resumed pursuant to adjournment.

By Mr. MAYNARD.—We will now offer Mr. Griswold for cross-examination.

Thereupon, Chauncey L. Griswold took the stand for cross-examination, by Mr. Walsh.

Q. Mr. Griswold, I understood you to say that you didn't come to Montana exclusively for your health?

A. No, sir.

Q. You formerly lived at Chippewa Falls, Wisconsin? A. I did.

Q. How long had you lived there?

A. I think about eight years, to the best of my recollection.

Q. Did you live in Chippewa Falls?

A. Yes, sir, most of the time in the city, or in Chippewa county.

Q. Where else did you reside besides Chippewa Falls, in that county?

A. I resided a portion of the time at Stanley.

Q. Where?

A. Stanley, that is about twenty miles from Chippewa Falls.

(Testimony of Chauncey L. Griswold.)

Q. Were you engaged in business on your own account, or were you working for somebody?

A. I was contracting for a portion of the time for the Mississippi Logging Company.

Q. For whom did you work after that?

A. Nye, Lusk and Hudson, of Thorpe.

Q. What was the last business you were engaged in before you left Wisconsin?

A. I was Postmaster at Stanley under President Harrison's administration.

Q. How large a place is Stanley?

A. Oh, it was a place at that time of five hundred people, I suppose; that is, the village. It is surrounded by a farming country.

Q. You didn't devote yourself solely to the business of postmaster in a town of five hundred inhabitants, did you?

A. No, sir, I run a grocery store in connection.

Q. What is that?

A. I run a grocery store in connection with it.

Q. Where did you last work under a salary, in Wisconsin?

A. Well, I couldn't say the year, it was immediately prior to the time that I was appointed postmaster; just a short time prior to that.

Q. And that was when?

A. I couldn't say the year.

Q. When did you leave there to come to Montana?

A. In the year of—in the winter of 1893 or '4, I

(Testimony of Chauncey L. Griswold.)

wouldn't say which; I got to Helena on the fourth of March.

Q. Of what year?

A. Well I couldn't say. It was the fourth of March that Mr. Cleveland was inaugurated for the second time.

Q. And you couldn't tell whether it was '93 or '94?

A. Well, I couldn't remember, but I think it was '94. I wouldn't say for sure.

Q. When did you leave Wisconsin?

A. Well, about—I think it took me four or five days on the road here from Wisconsin, and it was immediately prior to that.

Q. How long had you served as postmaster?

A. I believe about three years.

Q. Who was the—what was the firm that you last worked for?

A. Nye, Lusk and Hudson.

Q. Where was their headquarters?

A. In Thorpe, Wisconsin, in Price—no, it isn't Price county, Taylor county, I think it is; I am not sure what county, but Thorpe is the name of the town, and the station on the Wisconsin Central Railroad.

Q. What did you do for them?

A. I acted in the capacity of general superintendent of their mill up there at a place called Stanley, about seven miles west of Thorpe.

Q. How did you come to quit them?

A. Well, I quit them of my own accord, I wasn't discharged.

(Testimony of Chauncey L. Griswold.)

Q. How long did you work for that firm?

A. About two years.

Q. You say you were not discharged?

A. I was not discharged.

Q. What were the circumstances of your resigning the postoffice?

A. I wanted to come west, I sold out my store and wanted to come west on account of my health. My doctor there, A. D. McDonald, by name, advised me to come West, that I couldn't live in Wisconsin another winter on account of my lungs and throat.

Q. As a matter of fact the postoffice department invited you to resign, didn't it?

A. No, sir, I had hard work to resign, and when I did resign I had to appoint a Democrat to take my place.

Q. You appointed someone to take your place?

A. I did, yes, sir, as my deputy, a man by the name of Rabensdorf.

Q. To whom did you sell the store?

A. Well, I cannot recall his name. He is a one legged Swede or Norwegian, from Eau Claire, Wisconsin. He came up there and bought my store out.

Q. You were in trouble there?

A. No, sir, I was not in the least, in no kind of trouble, only with my throat and lungs. What do you mean? What kind of trouble do you mean, Mr. Walsh, if you please?

Q. I mean some difficulty with your accounts with the Government at that time?

(Testimony of Chauncey L. Griswold.)

A. No, not at the least, my bonds at the postoffice were considered good, and I wasn't a defaulter to the sum of one cent.

Q. You had been in some financial trouble, though, had you not? A. Prior to that time?

Q. Yes?

A. Not to my recollection. I had borrowed money there and had run bills and paid them; had to do it.

Q. You are quite sure though, that you hadn't been discharged from your employment by the people that had employed you there before?

A. I had not, no, sir.

Q. When did your family come to Montana?

A. With me.

Q. Came with you?

A. Yes, sir, that is my wife, that is all the family I have.

Q. Had you ever been to Montana before that time?

A. No, sir, I never had.

Q. Where did you come to in Montana?

A. I came to Helena.

Q. Where did you live in Helena?

A. The first place that I lived here in Helena was on Shyland street, I have forgotten the number. Mr. Boutwell, an acquaintance of mine from Wisconsin, Chippewa Falls, lived there.

Q. Where else did you live?

A. I think I moved from there over on State street,

(Testimony of Chauncey L. Griswold.)

way up on the hill. I have forgotten the lady's name that owned the house; I don't recall it now.

Q. How long did you live in Helena?

A. To the best of my recollection about two years.

Q. Did you live at any other place outside these two places you have mentioned? A. I did.

Q. Where else did you live?

A. I lived on Broadway.

Q. Where else?

A. No other places.

Q. Just those three places? A. Yes, sir.

Q. What did you do in Helena?

A. Why, I didn't do any labor in Helena—any work of any kind; did do some work on the Blackfoot river for my Eastern acquaintance.

Q. For two years? A. No, sir.

Q. Where did you go to when you left Helena?

A. I went to Clearwater, Montana, Deer Lodge county at that time, now Powell county.

Q. Have you lived there continuously since?

A. No, sir.

Q. When did you leave there?

A. I believe that I left there during the summer, 1899, moved from there to Missoula.

Q. Did you live at Clearwater continuously from the time you went there until 1899?

A. I believe so, yes, sir, that is my recollection of it.

Q. Were you ever up the Bitterroot Valley?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir.

Q. What were you doing there?

A. Looking over lands in that country.

Q. When was that?

A. I believe it was in 1898—1896—I guess, 1896. I think it was 1896 or 1897—I wouldn't say which.

Q. How long were you up there?

A. Oh, about four or six weeks in that vicinity.

Q. Who was with you?

A. My brother and a man by the name of Easterly.

Q. For whom were you operating at that time?

A. I couldn't say.

Q. Why couldn't you say?

A. Because I don't know.

Q. Your memory is not accurate enough for that, is it?

A. My memory is accurate enough, but I don't know.

Q. Well, if your memory is accurate enough, why don't you know for whom you were operating?

A. Because I never was told.

Q. How did you come to do it?

A. Went at the invitation of Mr. Easterly.

Q. Of Mr. Easterly?

A. Yes, Allen M. Easterly.

Q. Of—

A. I don't know where he was from. He was living in Helena at that time.

Q. What did he say to you?

(Testimony of Chauncey L. Griswold.)

A. He wanted me to go up there and look over that country.

Q. For what purpose?

A. Well, to see what had been done in the Bitter-root valley in the way of cutting timber on the public land?

Q. Did you go? A. Yes, sir, I did.

Q. Who paid you?

A. Mr. Easterly gave me a sum of money, I wouldn't say what. To my recollection it was a hundred and fifty dollars, somewhere on this side of the street, near the Grand Central hotel.

Q. For how many weeks' work was that?

A. It was about six weeks' work; there was no mention of it at all.

Q. A hundred and fifty dollars?

A. Yes, something like that.

Q. Well, how long did it take you?

A. My recollection is that we were in there about six weeks, might have been more and might have been less.

Q. Yourself, your brother and Mr. Easterly?

A. Myself, my brother, Easterly and another man.

Q. Easterly and another man? A. Yes, sir.

Q. Mr. Easterly gave you a hundred and fifty dollars?

A. That is my recollection. I wouldn't say for sure as to the sum.

Q. Who paid your expenses?

(Testimony of Chauncey L. Griswold.)

A. That was for the expenses.

Q. Did that cover your expenses? A. No, sir.

Q. How much was lacking?

A. Well, I couldn't say. There was quite a sum. I have no record of it with me here now, but I have it at home. There was more money due me at that time.

Q. How much more did he pay you?

A. Not any.

Q. What is that? A. Not any.

Q. Who paid you for your services?

A. No one.

Q. How did you come to render that gratuitously?

A. Well, there was nothing said about the services or my wages in any shape or manner. Just to go in there and look over the situation.

Q. For what purpose?

A. To see the amount of timber that had been cut off the Government domain.

Q. For what purpose?

A. I don't know.

Q. Did you get any more money from anybody on account of that trip?

A. Well, that is a leading question, I won't answer it.

Q. Won't answer it? A. No, sir.

By Mr. WALSH.—We will insist, your Honor, on an answer to this question.

(Testimony of Chauncey L. Griswold.)

By Mr. MAYNARD.—I insist that the witness be advised of his legal privilege by the Examiner, not to answer any question that he feels would have a tendency to incriminate himself, and that he may decline to answer the question on that ground.

By. Mr. WALSH.—I don't understand why it is the counsel for the Government makes that suggestion; he is not counsel for the witness.

By the EXAMINER.—The proper course of procedure would be for the Examiner to make out a statement of the facts and present them to the Court, and it would then be for the Judge to rule upon the question as to whether he should be compelled to answer or not. I exercise my discretion always, in the first place, and I will confess now, without anything further, that I doubt very much whether he would be compelled to answer. I would have to have a statement from counsel as to what he expects to prove or desires to prove.

By Mr. WALSH.—Yes, if the Court please, this is for the purpose of showing something of the history and career of the witness, so that the Court may more properly judge of his credibility. We desire to show that on an occasion other than this, he has threatened to prosecute certain persons for cutting on the public domain, and other acts of that character, and by these threats has procured them to pay him certain sums of money for the purpose of deterring him from making complaint to the Government or giving a statement of the facts connected with the matter.

(Testimony of Chauncey L. Griswold.)

By the EXAMINER.—When you use the expression, "other than these," do you mean this particular action, referring to this action now on trial, or another action?

Mr. WALSH.—I mean on an occasion other than the one now under investigation here.

By the EXAMINER.—That is, one independent of this one.

By Mr. MAYNARD.—My position is that this is simply an elementary principle of law presumed to be known by every man that claims to be a lawyer, that when another man is called upon the witness stand he has the legal privilege of declining to answer a question which in his judgment would have a tendency to incriminate him, and that it is the bounden duty of the Court or anybody sitting as an Examiner or Master in Chancery, to instruct the witness and advise him that such is his constitutional and legal privilege, and after he has been so advised, it is then optional with him as to whether he will elect to exercise that constitutional and legal privilege or not.

By the EXAMINER.—Yes, he must appeal to the privilege to avail himself of it.

By Mr. WALSH.—We will ask the Examiner to certify the question up, unless the witness answers the question.

By. Mr. BICKFORD.—I want at this time to remind the Master that the witness has claimed no privilege whatever, as yet.

(Testimony of Chauncey L. Griswold.)

By the EXAMINER.—He has been advised. It is my duty to advise him that he must give some reason for not answering the question. If he gives it as a reason, let him do so.

By the EXAMINER.—(To the Witness.) What is your reason for refusing to answer this question?

A. Because it is not pertinent to the case, and has nothing to do with the case whatever.

By the EXAMINER.—I wouldn't consider that sufficient.

By the EXAMINER.—(To Mr. WALSH.) I wish you would proceed further with the case, Mr. Walsh on another part of the testimony, and I will consider the matter and report on it later, when I have an opportunity to get the questions from the stenographer.

(By. Mr. WALSH.)

Q. How long had you been living at Clearwater before you went up the Bitterroot, say on this cruising excursion for which you had no employment?

A. I hadn't been living in Clearwater at all at that time.

Q. You were living in Helena?

A. I had been living in Helena, at that time.

Q. At this particular time? A. Yes, sir.

Q. That was some time in the year 1896?

A. That is my recollection of it. Yes, sir, or '7, I wouldn't say which.

Q. What is it?

(Testimony of Chauncey L. Griswold.)

A. '96 or '97, I wouldn't say which, it may have been prior to that time; I cannot remember the exact date.

Q. Cannot remember whether it was in one year or the other?

A. No, sir, I have got a record of it at home; I can produce it and will produce it at any time.

Q. Very well, we should be very glad to have you bring it, Mr. Griswold, any time you can.

A. I will, sir.

Q. What kind of memorandum is it you have?

A. Something in the shape of this. (Witness produces small note book.)

Q. Memorandum book? A. Yes, sir.

Q. We would like to have you bring it.

A. Very well, I have an account in it of what I was employed to do, and also maps of the country that I went over.

Q. Did you come back to Helena from that trip?

A. I did, sir.

Q. How long did you reside in Helena, after that trip? A. I couldn't say.

Q. Who introduced you to Mr. Easterly?

A. Well, I couldn't say that; I had known Mr. Easterly for some time, and have known him ever since, but my first acquaintance with him was in Helena.

Q. How did you come to go up there with him?

A. Well, we were talking the matter over.

Q. What matter?

(Testimony of Chauncey L. Griswold.)

A. The matter of the unlawful cutting of timber off the public domain.

Q. Well, what was the rest of it?

A. And he asked me if I would go up there and look the country over with him, and I told him I would if he would get the money to pay the expenses of the trip. We were to go on a kind of a fishing excursion, and look over the country generally.

Q. What was Mr. Easterly doing?

A. I couldn't say that he was doing anything.

Q. You don't know? A. No, I do not.

Q. Don't you know of any official position he had?

A. He had none to my knowledge.

Q. So far as you know, he had none?

A. No, sir.

Q. Well, when was it that you went to reside at Clearwater?

A. Well, I couldn't say the date. I wouldn't swear to that. I wouldn't say for sure, but I think it was some time subsequent to the time that we were in the Bitterroot Valley.

Q. Could you tell the year?

A. No, I couldn't swear to it.

Q. You couldn't?

A. No, sir, the records will show it.

Q. What records do you refer to?

A. The records of Missoula County.

Q. How will they show it?

(Testimony of Chauncey L. Griswold.)

A. Because there was a transaction there between myself and a man by the name of John Rivers.

Q. What was that?

A. I bought his place at the mouth of the Clearwater.

Q. You cannot tell us whether it was in 1897 or 1898 or when it was?

A. I wouldn't; I wouldn't attempt to say; I don't know the date.

Q. You told us of some transaction that occurred the other day, in 1899?

A. Yes, I remember that distinctly.

Q. You remember that distinctly? A. Yes, sir.

Q. Well, why didn't you—why can't you remember the date that you went to Clearwater?

A. Well, my memory is deficient.

Q. Well, I guess perhaps that is so. A. Yes.

Q. You say that Mr Cobban came to your place with a man by the name of—— What was his name?

A. Morris.

Q. Morris? A. Yes, David Morris.

Q. Who is Mr. Morris?

A. He is a young man that came out there and resided with his parents near the postoffice at Potomac in Missoula County.

Q. What kind of a business were you running at that time?

A. Running a hotel and stopping place, postoffice and saloon.

(Testimony of Chauncey L. Griswold.)

Q. At Clearwater? A. Yes, sir.

Q. What was the conversation you had with Mr. Cobban at that time?

A. I couldn't relate the entire conversation.

Q. Give us the substance of it so far as it had any relation to timber claims.

A. Mr. Cobban informed me that he was desirous of securing timber, but that he would be desirous of securing timber in that country, up in that vicinity, and I told him at that time that I had some claims in view that were for sale.

Q. Is that all the conversation you had?

A. Well, no, sir.

Q. Well, give the—go on and tell us what it was.

A. Well, that was the substance of it.

Q. That was all?

A. Well, to my recollection, yes, sir. That was not all the conversation we had, but it was the substance of it.

Q. What claims did you have in mind?

A. I had a claim that was taken up by me—or rather by my brother, in section eight, at the foot of Salmon Lake, section 8, township 15, north range, 14 west.

Q. Under what act was that, Mr. Griswold?

A. The Timber and Stone Act.

Q. When had proof been made?

A. April, 1899. There was also a man by the name of Cornish who had a claim.

(Testimony of Chauncey L. Griswold.)

Q. What kind of a claim was that?

A. A timber and stone claim.

Q. When had proof been made on that?

A. The Timber and Stone?

Q. Yes, when had proof been made on that?

A. In 1894 or 1895, to my recollection either 1894 or 1895.

Q. Well, what else, what other claims did you have?

A. There were two other claims that were owned by Mr. Osbourne and Mr. Laherty, in section 26.

Q. What kind of claims were those?

A. Timber and stone claims.

Q. When had proof been made on them?

A. I couldn't say.

Q. What else?

A. Well, I told him those claims could be bought, I was informed that they could be bought.

Q. Did you tell him what for?

A. Well, I told him those—what one claim could be bought for, and that is all I had anything to do with. The other parties—I think I did say, in my opinion the other claims could be bought, however, or some of them at least.

Q. Did you talk about anything else besides the purchase of these claims? A. Yes, sir.

Q. What else did you talk about?

A. The amount I was to receive for it.

Q. Anything else?

(Testimony of Chauncey L. Griswold.)

A. Well, I cannot remember at this time.

Q. Mr. Cobban authorized you to purchase these claims, did he?

A. He didn't at that time. He authorized me to get an option from Mr. Cornish, who was living at Boulder at that time, I believe.

Q. F. E. Cornish?

A. Yes, sir, you know him, and so do I, I presume.

Q. You did subsequently acquire some of these claims, did you? A. I did acquire them all, yes.

Q. All these claims that you have mentioned?

A. Yes, sir.

Q. Purchase them? A. Yes, sir.

Q. For Mr. Cobban?

A. Well, I wouldn't say that.

Q. To whom was the conveyance made?

A. Sir.

Q. To whom was the conveyance made?

A. Mr. Cobban.

Q. That is what you wouldn't undertake to say, then? Mr. Cobban, I say, didn't tell you to get these claims, did he? A. He didn't at that time.

Q. Well, did he subsequently? A. Yes, sir.

Q. You got them for him?

A. I wouldn't say that.

Q. You got them anyway?

A. I wouldn't say that.

Q. Well, didn't you make him pay for them, for getting them?

(Testimony of Chauncey L. Griswold.)

A. He did pay me my commission, yes, sir.

Q. Well, then, you got them, didn't you?

A. I did not.

Q. Well, why did you make him pay you, and what did you make him pay you for?

A. For the commission.

Q. Commission for what?

A. For getting this land.

Q. Well, did you get it? A. No, I didn't.

Q. Well, why did you make him pay you for getting this land, if you didn't?

A. Because it was a contract between Mr. Cobban and I, entered into on the 22d day of May.

Q. What did you mean by saying that you didn't get them?

A. I told Mr. Cobban where the claims were, and he went to Mr. Osborne about them. These claims of Osbourne and Laherty were in the First National Bank, the titles to them, and Mr. Cobban went there and made his own arrangements. What they were, I don't know. About the Cornish claim, I wrote to Mr. Cornish and asked him what he would take for it, and subsequently Mr. Cobban bought it from Mr. Cornish.

Q. You got your commission on it, did you?

A. I did, yes, sir.

Q. Well, how about any other claims?

A. I did.

Q. Did you buy any other claims?

A. Yes, sir, I did.

(Testimony of Chauncey L. Griswold.)

Q. What others did you buy?

A. Well, there are several in that country that I bought.

Q. Well, go on and tell what they were.

A. Well, I wouldn't say what I bought.

Q. Could you see any more?

A. There were others; I don't know that there was any that final proof had been made on, I can't remember any. Yes, I do, some. Myself, and the other man that I had in my employ had one.

Q. What is that?

A. Bought some myself; the man that I had in my employ bought some.

Q. Give the names of some of them.

A. Well, we had Mr. Peer's claim. He filed on it as a homestead, as well as the Johnson claim of Charles E. Johnson. He keeps a livery stable in Missoula.

Q. What kind of a claim?

A. Timber and stone, that is my impression about it, I don't know.

Q. When had proof been made on that?

A. Sometime about the first of August.

Q. What year was that?

A. In 1899, and others, I wouldn't say what they were.

Q. Have you named all of the claims upon which proof had been made, that you now recall, that you bought? A. I wouldn't say.

(Testimony of Chauncey L. Griswold.)

Q. Well, you can say whether you can recall any more or not?

A. I can't remember. I bought these up—

Q. Mr. Griswold, I wish you would pay attention to the question and then answer it. A. Yes, sir.

Q. I say have you named all that you can remember?

A. All that I remember, yes, sir.

Q. You don't now recall the names of any persons from whom you purchased claims other than those mentioned, do you?

A. I do not. In connection with that, there might have been more, I presume there was.

Q. Now, when did you first talk to Mr. Cobban about purchasing claims having timber on them?

A. To the best of my recollection, it was the fore part of May, 1899.

Q. On this occasion did he come to your place?

A. Yes, sir.

Q. Did you talk then with Mr. Cobban about the acquisition of title to lands in any other way than by purchase from those who owned lands in that neighborhood at that time?

A. I couldn't say that I did or did not—I wouldn't answer—I couldn't say.

Q. Didn't you have any talk with Mr. Cobban at that time about acquiring lands by the use of scrip under the Forest Reserve Act?

A. No, sir, I did not at that time.

(Testimony of Chauncey L. Griswold.)

Q. When did you first talk with Mr. Cobban about that matter?

A. Well, to the best of my recollection, it was on the 22d day of May, 1899.

Q. Never talked with him before that, didn't you?

A. Not to the best of my recollection.

Q. You had some talk with him about that matter, didn't you?

A. Referring to the 22d of May, do you mean?

Q. Yes, sir. A. Yes, sir.

Q. About acquiring lands in that vicinity with the use of Forest Reserve scrip? A. Yes, sir.

Q. You did subsequently acquire lands by the use of Forest Reserve scrip for Mr. Cobban, didn't you?

A. Yes, sir.

Q. Where did you get these lands?

A. In various places.

Q. Where, with reference to the claims in controversy in this action?

A. They were outside of the survey.

Q. And in the immediate vicinity of the lands in controversy at this time? A. Yes, sir.

Q. Did you locate Forest Reserve scrip on any surveyed lands? A. Yes, sir, I did.

Q. You are sure about that?

A. I am very positive, with the exception of my putting into the United States land office at Helena for certain claims with scrip that I purchased from the Collins Land Company.

(Testimony of Chauncey L. Griswold.)

Q. Forest Reserve scrip?

A. Yes, sir, I believe so.

Q. You undertake to say that you paid for any timber and stone lands with Forest Reserve scrip?

A. Yes, sir, I do, or with some other kind of scrip; I wouldn't say what the denomination of it was—what the name of it was.

Q. I thought we would get around to it after a while.

A. Yes, sir.

Q. I show you your testimony, or rather, show you a paper in connection with final proof on Cash Entry No. 1138, of Emma Dildine, purporting to be your testimony in connection with that final proof, and ask you if it is a fact that you signed that.

A. Yes, sir, I signed it.

Q. That is your signature, is it?

A. Yes, sir, I don't deny it.

Q. Well, you couldn't if you wanted to, could you?

A. No, sir, I don't want to.

Q. Among the questions you appear to have been asked you appear to have been asked the following: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" to which you answered, "No, sir, not to my knowledge."

A. That is correct.

(Testimony of Chauncey L. Griswold.)

Q. You may state whether that answer is true or false?

A. Correct, to the best of my knowledge.

Q. It was true at the time you made it?

A. Yes, sir, to the best of my knowledge. Yes, Mrs. Dildina located this claim under my directions to Mr. Jemison, and I had nothing to do with it; knew nothing of the facts. I was acquainted with the lands and would be a witness for her.

Q. What facts do you know, of your own knowledge, in relation to Cash Entry No. 1138, now, that you didn't know at the time you made this proof?

A. I don't know anything, sir.

Q. So that so far as your knowledge goes now, this is just as true now as it was at the time you made it.

A. Yes, sir.

Q. I now show you the papers in connection with Cash Entry No. 1204, of Mrs. Effie M. Kilbourne, and ask you—and call your attention to a paper purporting to be your testimony in connection with the final proof on that cash entry, and ask you whether that is your testimony. A. Yes, sir.

Q. And is that your signature appended to it?

A. Yes, sir, it is.

Q. In connection with the proof you were asked the following question: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title he may acquire from the Gov-

(Testimony of Chauncey L. Griswold.)

ernment of the United States may inure in whole or in part to the benefit of any person except himself," To which you answered: "She has not, to my knowledge."

A. That is correct.

Q. You may state whether that answer is true or false.

A. It was true, further than the instructions to the man, Mr. Kilbourne, husband of this woman who made this entry was in my employ at that time.

Q. Mr. Griswold, that is a plain question.

A. I answered it.

Q. The question is, Mr. Griswold, do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever, by which the title he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself. You answerd "She has not to my knowledge." A. Yes, sir.

Q. And that was true, you say?

A. Further than the instructions to her husband, E. R. Kilbourne, who was in my employ at that time.

Q. You didn't put that in your answer, did you?

A. No. sir.

Q. Why didn't you?

A. It was not required.

Q. The answer was true, then, was it not, as it is now? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. What facts do you know now of your own knowledge concerning the entry of Effie M. Kilbourne that you did not know at the time you made this, gave this testimony on the final proof?

A. Oh, I wouldn't say as to that.

Q. Well, I would like to have you say. Do you understand the question, Mr. Griswold?

A. I understand the question.

Q. What facts do you know of your own knowledge concerning the entry of Effie M. Kilbourne, now, that you did not know at the time that answer was made?

A. I won't answer.

Q. You won't answer? A. No, sir.

By Mr. WALSH.—Well, we will have to ask the Honorable Master to either require the witness to answer the question, or to certify the question up to the Court.

By the EXAMINER.—I will pass on this before we adjourn.

Q. So far as your own knowledge goes, that answer is just as true now as it was at the time you gave the testimony and signed it.

A. Yes, so far as my knowledge goes, further than my instructions were to the man who located this lady on the land.

Q. You knew all about it at that time, didn't you?

A. No, sir, I did not.

Q. Did you give this man any instructions after you made this final proof?

(Testimony of Chauncey L. Griswold.)

A. No, sir, before the time she made the final proof.

Q. Did you know about the instructions you had given to Mr. Kilbourne at the time you made the final proof? A. I believe I did, yes, sir.

Q. Is that a fact which you have learned since this time?

A. No, sir, I knew it previous to this time.

Q. Well, now, do you know of any facts of your own knowledge touching the validity of this entry that you did not know at the time this final proof was made?

A. No, sir.

Q. Well, please answer the question.

A. All right.

Q. As far as your own knowledge goes, that is just as true now as it was then? A. No, sir.

Q. It is not? Then you refuse to answer the question? A. Yes, sir.

Q. You will not answer? A. No, sir.

By Mr. WALSH.—Then, if your Honor please, we will ask that this also be certified up.

By the EXAMINER.—Very well.

Q. What instructions did you give the husband of Effie M. Kilbourne?

A. My instructions were for him to go on and locate—select lands for these people—different people, with the understanding—

Q. Oh, no, what instructions did you give to this man?

A. Well, I am giving it to you.

(Testimony of Chauncey L. Griswold.)

Q. Well, you didn't give him any instructions?

By Mr. MAYNARD.—Just give him the answer in your own way.

Q. I will ask you, Mr. Griswold, what instructions you gave to Mr. Kilbourne?

A. I instructed Mr. Kilbourne to go on and locate these different people, with the understanding that Mr. Cobban, for whom I was acting as agent, was to furnish the money to defray the expense of their filing on the land, and to pay into the Land Office the fees required of two dollars and a half an acre, and then they would transfer this land to Mr. Cobban, or whom he might elect. Under those instructions, I put Mr. Kilbourne to work.

Q. You don't know what he said to Mrs. Kilbourne, do you?

A. I did not, I couldn't overhear the conversation of husband and wife, and I suppose they had talks about it I didn't overhear.

Q. Yes, sir. When did you give those instructions to Mr. Kilbourne?

A. I think in the month of June.

Q. Where were you at that time?

A. At Clearwater,

Q In the month of June? A. I believe so.

Q. What was Mr. Kilbourne doing at that time?

A. He wasn't doing anything at that time.

Q. Where did he live? A. Lived at Ovando.

(Testimony of Chauncey L. Griswold.)

Q. Where were you when you gave him these instructions?

A. I think in my saloon building at Clearwater.

Q. Who was present?

A. I wouldn't say that anyone was.

By Mr. MAYNARD.—Who did you say was present, Mr. Griswold?

A. I wouldn't say that anyone was present.

Q. Well, would you say that anyone was present besides yourself?

A. I wouldn't say; there might have been, there might have been a dozen in there and there might not have been a soul personally present.

Q. How long did Mr. Kilbourne work for you?

A. Why, I believe about five months; that is my recollection of it.

Q. When did he quit?

A. I couldn't say as to that.

Q. You never had any talk with Mrs. Kilbourne?

A. Yes, sir, I think I had lots of talks with Mrs. Kilbourne.

Q. Did she tell you that she had been instructed to sell this land? A. No, sir.

Q. Or that she had made any agreement to sell this land? A. No, sir.

Q. I show you the papers in connection with Cash Entry 1139, of Laura Roll, and to a paper purporting to be your testimony upon the final proof on that entry, and I ask you if that is your signature to that paper.

(Testimony of Chauncey L. Griswold.)

A. It is.

Q. You were asked in connection with that proof the following question. "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" and the answer you made at that time is, "Not to my knowledge?" A. Yes, sir.

Q. Is that correct? A. That is correct.

Q. Is that answer true or false?

A. It is with the understanding that I had with Mr. Jemison, who was working for me at that time.

Q. Will you answer the question, Mr. Griswold?

By Mr. MAYNARD.—Go on, Mr. Griswold, you are answering the question.

A. —That these parties would be furnished sufficient funds to pay all the expenses in acquiring title to this land from the Government. That is they were to make their application to purchase, and they were to be furnished with sufficient funds to pay the advertising, expenses of traveling to Missoula, or to whereever they were to go, and then they were to pay into the Land Office so much money per acre for the land. Subsequently they were to deed this land to Mr. Cobban or whom he might elect for the consideration of one hundred dollars. That was my instructions to Mr. Jemison, who was working for me at that time.

(Testimony of Chauncey L. Griswold.)

Q. Did you say so in your direct examination?

A. I couldn't say whether I did or not.

Q. Well, you were asked about it, weren't you?

A. I couldn't say about that.

Q. Can't say about that?

A. It was two or three weeks ago, and I can't remember.

Q. You can't remember? A. No, sir.

Q. Now, Mr. Griswold, you knew all about these instructions at the time you made this answer, didn't you?

A. I did, yes, sir.

Q. That was before this proof was made, wasn't it?

A. Yes, sir.

Q. Now you may answer my question as to whether you knew or you did not know at the time you made that answer, that it was either true or false?

A. I did not know; my instructions to Mr. Jemison—

Q. No, I didn't ask you what you instructions to Mr. Jemison were. I asked you if it was true or false?

A. I don't know, I cannot say.

By Mr. MAYNARD.—If his voice bothers you at all, Mr. Griswold, you may move back a little.

By Mr. GRISWOLD.—It don't bother me at all.

Q. Did you know at the time you made this answer whether it was true or false?

A. I knew the instructions that I had given to Mr. Jemison, who was in my employ at that time.

Q. That isn't the question, Mr. Griswold?

(Testimony of Chauncey L. Griswold.)

A. Well, that is all you will get.

Q. I want to know from you whether you knew at the time you made this answer, whether it was true or false. A. I don't know.

Q. You don't know?

A. No, sir. I think it is, as far as my instructions were to Mr. Jemison, who was in my employ at that time.

Q. Did you intend to answer that question truly or falsely? A. I did.

Q. You did what? A. Intend to answer it truly.

Q. And according to what light you had, the question was answered truly, was it?

A. Why, it was, yes, sir.

Q. I show you the papers in connection with Cash Entry 1098, of Oscar Muckenheim, and to a paper purporting to be your testimony upon the final proof in that case, and ask you whether or not that is your testimony? A. It is.

Q. And is that your signature to it?

A. The signature is mine. There is a cross prefixed. I never had to make a cross yet to my name.

Q. On that final proof it appears that the following question was put to you: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure

(Testimony of Chauncey L. Griswold.)

in whole or in part to the benefit of any person except himself?" to which you answered, "I do not."

A. I know that there was no agreement.

Q. You may state now whether the answer which you made to that question at that time was true or false?

A. To the best of my knowledge there was an agreement between Mr. Cobban and Mr. Muckenheim.

Q. Answer my question, please.

By Mr. MAYNARD.—He has answered it; he says to the best of his knowledge there was on agreement.

By Mr. WALSH.—That isn't the question I asked him; I didn't ask him whether there was any agreement. I asked him whether his answer to this question was true or false.

By Mr. MAYNARD.—That is the way he takes of answering it.

By the EXAMINER.—(To the Witness.) You have to answer the question.

A. Well, it was true in this case.

Q. Do you know any facts about the entry of Oscar Muckenheim now that you did not then know of your own knowledge? A. I do, yes, sir.

Q. What facts have you now in your possession or of your own knowledge that you were not then cognizant of?

A. I was cognizant of the whole thing.

Q. What is that?

(Testimony of Chauncey L. Griswold.)

A. I was cognizant of the whole thing at that time, as far as this conversation went with this Mr. Muckenheim and myself.

Q. Perhaps you don't understand the question.

A. I do, yes, sir.

Q. What facts do you know now of your own knowledge concerning the legality of this entry that you were not cognizant of at the time you made this proof?

A. I knew Mr. Muckenheim, and knew that there was an agreement between him and Mr. Cobban, because this land of Muckenheim's was in an isolated place, and I didn't consider it very valuable and I wouldn't accept it; we couldn't agree on the price, but he did subsequently agree with Mr. Cobban, and Mr. Cobban did subsequently purchase the land.

Q. That is, you know something that Mr. Muckenheim has told you since? A. Yes, sir.

Q. That is all?

A. That is all, and the fact that Mr. Cobban purchased the land from him, I know that.

Q. You know that also? A. Yes, sir.

Q. Those are all the facts, are they?

A. Yes, sir.

Q. What did Mr. Muckenheim tell you that Mr. Cobban had said to him?

A. Well, he told me that Mr. Cobban would pay him more money than I offered him over and above the expenses.

Q. Did he say he had talked with Mr. Cobban?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir, he did.

Q. Where did he say he had seen Mr. Cobban?

A. At Clearwater, I believe.

Q. What is that?

A. At Clearwater, I believe.

Q. And what was it he said to you?

A. Well, I told him I couldn't give him but fifty dollars, over and above the expenses of filing on the land. He told me that Mr. Cobban would give him a hundred dollars.

Q. Is that all he said? A. Yes, sir.

Q. You have told now the substance of the conversation between you and Mr. Muckenheim, have you?

A. I wouldn't say that; he talked to me a good while. I was well acquainted with him, and he was hard of hearing. We had quite a conversation at several different times. He was stopping out at my place at Clearwater.

Q. I now call your attention to the papers in connection with Cash Entry No. 1111, of Harriet Bryan, and particularly to the paper which purports to be your testimony, upon the final proof in this case, and ask you if it is your testimony, and whether that is your signature to it?

A. That is my signature, yes, sir.

Q. You were asked in that connection, the following: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the

(Testimony of Chauncey L. Griswold.)

title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" to which it appears that you answered, "Not to my knowledge." Is that your answer to that question?

A. I think it was.

Q. Was that the answer to the question?

A. Yes, sir.

Q. Did you know at the time you made that answer that it was not true? A. I did.

Q. And you intended willfully at that time to answer that question falsely?

A. I did, I had to do it under my contract with Mr. Cobban.

Q. Did you have any contract with Mr. Cobban by which you were hired to in any manner commit perjury?

A. No, sir, I did not.

Q. You refer to a certain contract which you identify, as an exhibit in the case, in your direct examination. What you claim to be a copy. A. Yes, sir.

Q. Is there any clause in that that compels you to go before the land office and commit perjury?

A. No, sir, it says that I shall secure the land for which I am to receive five cents a thousand for the lumber on it. If I don't secure the land, I am not to get anything. That is, if he don't secure the land.

Q. And you testified falsely upon the hearing in this matter. In other words, committed perjury in this case, for the purpose of getting the money on this entry?

(Testimony of Chauncey L. Griswold.)

A. By hearsay.

Q. What do you mean by hearsay?

A. I said there was an agreement by which this land was to be acquired and transferred to Mr. Cobban.

Q. And when you said, "No, I have no knowledge" you did have knowledge.

A. Yes, sir, that is, hearsay knowledge.

Q. I call your attention to the papers in connection with Cash Entry No. 1123, of Jacob F. Jemison, and to your testimony and to what purports to be your testimony in connection with the same.

A. I don't know; I don't believe I was a witness for him.

Q. —And ask you if it is not in fact your testimony and whether your signature is appended to it?

A. Yes, sir.

Q. In that connection you were asked the following question: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" to which you answered, "Not to my knowledge." Was that your answer to the question?

A. Yes, sir.

Q. Now you may state whether it was true or false?

A. I couldn't say; I didn't have any conversation with Mr. Jemison. The conversation with him was be-

(Testimony of Chauncey L. Griswold.)

tween Albert Jemison and himself, in regard to this land. He was located on the land by Albert Jemison, who testified yesterday, and what he done, he done according to my directions and instructions. There was a contract made prior to the time that he made application to purchase the land.

Q. Then what have you to say to this answer, was that true or false? A. I couldn't say.

Q. Could not say whether it was true or false?

A. No, sir, I couldn't say, to the best of my knowledge.

Q. You said that you didn't know whether there was a contract or not.

A. No, sir. I followed the instructions and gave them to the man that was in my employ.

Q. You may tell us, now, Mr. Griswold, whether that was true or false, at the time when you said there was no contract with Mr. Jemison.

A. The answer was true. I said I didn't know.

Q. What knowledge have you now concerning the Jacob F. Jemison entry that you did not have at the time you made this proof?

A. I had no knowledge. I never talked with Mr. Jemison in any way, shape or manner; it was done through this man that I had in my employ.

Q. Answer the question, Mr. Griswold. What knowledge have you now concerning this entry that you didn't have at the time you made this final proof?

(Testimony of Chauncey L. Griswold.)

A. Well, I got the knowledge when the claim was turned over to Mr. Cobban, immediately after the final proof was made.

Q. Now what else?

A. In accordance with the instructions that I had given to Mr. Jemison, who had the talk with his father in regards to the claim.

Q. How do you know that it was in accordance with those instructions that you gave Mr. Jemison?

A. Because it was my instructions to him to do so.

Q. Well, how do you know that those instructions were carried out? A. I don't know.

Q. So that the only fact that you now know that you didn't know then, is that Mr. Jemison conveyed the land to Mr. Cobban? A. No, sir.

Q. Do you know of any other fact touching this entry that you did not know at that time?

A. I cannot say that I do.

Q. I now call your attention to the papers in connection with Cash Entry No. 1124, of Albert Jemison, and to what purports to be your testimony upon the final proof in that case, and ask you if it is your testimony?

A. Yes, sir, it is.

Q. And is that your signature to it?

A. Yes, sir.

Q. Upon the making of that final proof you were asked the following question: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any per-

(Testimony of Chauncey L. Griswold.)

son whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" to which it appears that you answered, "Not to my knowledge." Was that your answer?

A. Yes, sir, it was.

Q. Was it true or false?

A. It was false.

Q. Did you know at the time you answered thus, that it was false? A. I did.

Q. And you knew that at that time you were committing perjury in making this answer?

A. Yes, sir, to a certain extent.

Q. Well, if you didn't give the "whole hog," what reservation did you make?

A. Well, I have got this reservation, right here. Right here is a set of papers that all entrymen and entrywomen have to fill out before they can perfect title to this land, and there is no one that can make them out but what has to commit perjury. I don't think there has been one in the State of Montana, or in any other state where there is public lands, but what perjury has been committed. Can't do it in any other way.

Q. That is, you don't hesitate to commit perjury here because you think somebody else has done so?

A. I was supposed to do so; it was the custom of the country in which we lived to take up these claims and go on and swear this way, the way I swore in this paper.

(Testimony of Chauncey L. Griswold.)

Q. You understand the question perfectly?

A. Yes, sir.

Q. And you understand your answer perfectly?

A. Yes, sir.

Q. And you say you knew it was false?

A. Yes, I did at the time. I had to do it in order to get pay for my lands under the contract that I had with Mr. Cobban.

Q. What was there in your contract with Mr. Cobban that compelled you to go before the land office and commit perjury?

A. I was to furnish him a certain amount of land.

Q. You took up a timber and stone claim, did you?

A. I did, yes, sir.

Q. When did you take it up?

A. I believe in 1894.

Q. Did you commit perjury when you took that up?

A. I did, yes, sir, had to.

Q. Is that the first time you ever committed perjury?

A. It is to the best of my knowledge and belief.

Q. And you have been doing it ever since?

A. No, sir, I wouldn't say that, don't say that.

Q. What did you do with your timber claim?

A. I have it yet, or an interest in it.

Q. What is that?

A. I have an interest in it yet.

Q. When did you convey away any interest in it?

(Testimony of Chauncey L. Griswold.)

A. In 1895—or in 1894, I wouldn't say which. I combined with that a lot of other land that the Wisconsin company bought from the Northern Pacific Railroad together with lands that was located and occupied by settlers in the Blackfoot, or in the vicinity of Lincoln, and from that down the river, and we have it yet to the best of my knowledge. I have not been informed of any transfer.

Q. That is you sold it to this company in which you are interested?

A. I haven't said that; haven't said anything of the kind. I said I combined it with other lands that we had acquired from the Northern Pacific Railroad, if I remember right.

Q. I wish you would explain why if I want to take up a stone and timber claim I cannot do so without committing perjury?

A. Because you do it for speculative purposes.

Q. How do you know?

A. Because you couldn't do it for anything else.

Q. So that it is the speculation in which the perjury consists?

A. Yes, sir. Well, there is another clause in here. (Witness takes up paper.) "That I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit." The land, according to my understanding, would be valueless for any other purpose than the timber which stands on it.

(Testimony of Chauncey L. Griswold.)

Q. You don't see any reason why a man couldn't take up the land without having agreed to convey it away, do you?

A. No, sir there is no reason why he could not, but he does it, and he does it for purely speculative purposes and for nothing else.

Q. Now, in any of these questions to which I have called your attention, is there anything about the same having been taken on speculation?

A. Yes, sir. Yes, there is some other point in these papers.

Q. Well, I wish you would read the question over, please.

A. "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner, with any person whomsoever, by which the title he may acquire from the Government of the United States, may inure in whole or in part to the benefit of any person except himself?" My answer is "not to my knowledge." Now I did have a knowledge and an understanding with Mr. Jemison—Albert Jemison—that he was to transfer this land for and in consideration of the sum of one hundred dollars, prior to the time he made this entry.

Q. That wasn't the question that I asked you. I asked you if there was anything in that question about the land being taken up on speculation.

A. No, sir, in that question there was not.

Q. There was not? A. No, sir.

(Testimony of Chauncey L. Griswold.)

Q. I now show you the papers in connection with Cash Entry No. 6184, of John B. Catlin, and to what purports to be your testimony in connection with the same. A. Yes, sir.

Q. And I ask you if that is your testimony?

A. It is, yes, sir.

Q. In that case you were asked the following question: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" to which it appears that you answered, "He has not to my knowledge."

A. Yes, sir.

Q. Was that answer true or false?

A. It was true.

Q. What knowledge have you concerning the entry of John B. Catlin that you didn't have when you made answer to that question?

A. I haven't any, and didn't have any, more than the records show that Mr. Catlin has transferred that land to Mr. Cobban.

Q. I show you the papers in connection with Cash Entry No. 6185, and to a paper purporting to be your testimony in connection with the final proof in that case, and ask you whether that is your testimony?

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. And is that your signature?

By Mr. MAYNARD.—What case is that Mr. Walsh?

By Mr. WALSH.—No. 6185, Belle Bryan.

A. Yes, sir, that is my signature.

Q. You were asked in that connection the following question: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benfit of any person except himself?" to which you answered, "I do not." A. Yes, sir.

Q. Was that your answer to that question, Mr. Griswold? A. It was, yes, sir.

Q. Was it true or false? A. It was true.

Q. What knowledge, if any, did you have at that time, concerning the entry of Belle Bryan, at the time you made this answer, which you have not now?

A. Miss Bryan has conveyed this land to Mr. Cobban.

Q. What else have you Mr. Griswold?

A. Cobban had a contract with Mr. Bryan her father to transfer this land to Mr. Cobban.

Q. What knowledge did you have of any contract with Thomas B. Bryan? A. Just his word.

Q. I ask you of your own knowledge, Mr. Griswold?

By Mr. MAYNARD.—That is his answer. He gets it directly from Mr. Bryan, her father.

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—Mr. Counsel, you will have to let this witness answer the questions without any instructions at all.

A. Nothing only what Mr. Bryan has told me.

Q. Of your own knowledge, you know nothing except that she has conveyed the land to Mr. Cobban?

A. Mr. Bryan told me that there was an agreement between him and Mr. Cobban.

Q. Mr. Griswold, you know the difference between what somebody told you and what you know of your own knowledge, don't you?

A. I believe I do.

Q. You know the difference between those two things?

A. I think so; I think I have got good common sense I try always to have it.

Q. Well, do you know this—know of this contract of yor own knowledge, or do you know it from what Mr. Bryan told you so?

A. Mr. Bryan told me so, and Cobban also.

Q. I asked you what you knew of your own knowledge, rather than what he told you?

A. I have never seen any written contract. Never knew there was one, of my own knowledge.

Q. Now, Mr. Griswold, I show you the papers in connection with Cash Entry No. 6186, of Leonard Barrott, and to what purports to be your testimony in the case, and I ask you if that is your testimony?

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. And is that your signature to it?

A. Yes, sir.

Q. Now, in connection with that you were asked the following question: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" to which you answered, "He has not to my knowledge." Was that your answer to the question?

A. Yes, sir.

Q. Was that true or false?

A. Yes, sir, it was true.

Q. What knowledge, if any, have you now concerning the entry of Leonard Barrott, of your own knowledge, that you didn't have at the time this proof was made?

A. I had none more than the records of the Missoula recorder's office—more than they showed that the transfer was made, and that I located Mr. Barrott on this land, according to Mr. Cobban's contract with me.

Q. Was that before or after this proof was made?

A. Before.

Q. Well, Mr. Griswold, I wasn't asking you that. I asked you what knowledge you have now that you didn't have at that time. A. Yes, sir.

Q. Is there any knowledge that you have now that

(Testimony of Chauncey L. Griswold.)

you didn't have at the time Mr. Barrott conveyed that land to Mr. Cobban?

A. Nothing more than the records of Missoula County; they show that a transfer was made of this land, that was taken up by Mr. Barrott under my direction.

Q. Was that before or after this proof was made?

A. After.

Q. What knowledge have you now that you did not have at the time this proof was made, other than the fact that this land was transferred by Mr. Barrott to Mr. Cobban?

A. I have none, only what the records show, as I said before.

Q. What is that?

A. Only what the records show, as I said before.

Q. And that is what?

A. That the land was transferred by Mr. Barrett to Mr. Cobban.

Q. When was that?

A. Immediately prior or immediately after the final proof was made.

Q. And that is all the additional knowledge you have as to the validity of this entry? A. Yes, sir.

Q. I show you the paper in connection with Cash Entry No. 6187, being of Edgar Lehman, and to what purports to be your testimony in that case, and I ask you if that is your testimony in that case?

A. Yes sir, it is.

Q. And is that your signature that is attached to it?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir, it is.

Q. It appears there that you were asked the following question: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" and to which you answered, 'He has not to my knowledge."

A. Yes, sir.

Q. Was that answer true or false?

A. It was true.

Q. What knowledge concerning the entry of Edgar Lehman that you did not have at the time he made this entry—at the time you made this answer?

A. Well, Thomas B. Bryan, who was on the stand yesterday afternoon, told me that these parties went on and took up this land—

Q. Wait a moment. I asked you what knowledge you have of your own knowledge not what anybody else told you.

A. They would transfer to Mr. Cobban—

Q. When did he tell you this?

A. —For and in consideration of the sum of one hundred dollars over and above the expense of making the filing and the final proof.

Q. When did he tell you this?

A. I couldn't say as to the day or the month.

(Testimony of Chauncey L. Griswold.)

Q. With reference to the time that the entry was made. A. Well, just a few days prior to that.

Q. Prior to the time the application was made.

A. Yes, sir.

Q. Did you understand that question, Mr Griswold?

A. Yes, sir, I believe I do.

By Mr. MAYNARD.—He has answered it now.

Q. Answer the question, please.

By Mr. MAYNARD.—I object to that for the reason it has already been aswered.

A. I know that Mr. Lehman transferred this land to R. M. Cobban by a warranty deed.

Q. What other facts have you any knowledge of, of your own knowledge, touching the entry of Edgar Lehman, that you did not have at the time when you made this final proof?

A. I have knowledge of the fact that I didn't have when he made this final proof.

Q. Mr. Griswold, you may tell us what those facts are.

A. Well, Mr. Cobban, after making this final proof, came to me in Missoula and spoke to me about these three claims which were—the final proof was made on the same day—asked me why these parties didn't make a transfer of this land to him according to the agreement, and I said I would try and get them to do so. At that time I took a team and drove to Camas Prairie, and took Miss Lelia T. Bryan and brought her down to Mis-

(Testimony of Chauncey L. Griswold.)

soula, and left her at her brother's. It was after dark when we got there, and she stayed at her brother's house all night, and then in the morning we went to Mr. Cobban's office, when she transferred the land. And I believe the next day I went to Bonner and saw Mr. Lehman, and he didn't want to transfer the land, and if my memory is correct, Mr. Bryan and I met Mr. Lehman and we had a talk—talked the matter over, and he subsequently did come to Missoula and transferred the land to Mr. Cobban. Under that contract he then made a demand for twenty dollars more for this claim than had been offered him, and Mr. Cobban paid him.

Q. And did the acquisition of this additional knowledge that you acquired in that transaction after his proof had been made, satisfy you that your testimony was wrong? A. Why, no, sir.

Q. It did not?

A. No, sir, Mr. Bryan's word satisfied me that my testimony was wrong.

Q. Mr. Bryan's word?

A. Yes, because he is a man that I would rely on, and whatever he said, I would believe he was telling the truth.

Q. You took no steps to correct it however?

A. No, sir.

Q. You didn't advise the land office that you were mistaken about the Edgar Lehman proof?

A. No, sir, if I had—

Q. Why didn't you?

(Testimony of Chauncey L. Griswold.)

A. If I had, I would have been beaten out of a certain sum of money twenty-five dollars, I believe.

Q. And as I understand you, at the time you made this answer to this question, you thought it was absolutely correct and true—but these other things that transpired subsequently, satisfied you that it was not?

A. I don't think I ever have admitted it.

Q. What is that?

A. I don't think I have admitted that.

Q. Well, didn't you say that—in answer to my question?—that this answer that you made to this question was true?—at the time you made it?

A. Only by hearsay.

Q. Well, what you did say about it?

A. Why—

Q. Was to the effect that Edgar L. Lehman had or had not made any agreement or transfer?

A. Well, he had made an agreement to transfer.

Q. Well, let us go back at this again, Mr. Griswold.

A. All right, sir.

Q. Look over your answer to that question.

(Counsel hands witness paper.)

A. That is all right.

Q. You know what it is?

A. Yes, I know about what it is.

Q. And you told us it was true as far as your knowledge went? A. Yes, only by hearsay.

Q. What is that?

(Testimony of Chauncey L. Griswold.)

A. Only by hearsay, Mr. Lehman told me there was an agreement.

Q. You answered at that time, did you not, "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" You made answer to that question as follows: "He has not to my knowledge" did you not. You may answer that question.

A. I ask for the prior question, the one preceding that one.

Q. If there is any question that has been answered it will be withdrawn in favor of this question. I ask you if you did not answer that way. A. Yes, sir.

Q. Now, I will have to ask you to tell us whether it was true or false?

A. Well, to my knowledge it was true, except as far as it was hearsay.

Q. Well, what was your hearsay?

A. If my recollection serves me right, there was a conversation between myself and Mr. Lehman, wherein he agreed to transfer this land to Mr. Cobban or his order for a hundred dollars, as soon as he could make final proof.

Q. Well, you understood that question, didn't you?

A. Yes, sir, I did.

Q. You understood that? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. You understand that I am not inquiring of you whether you did say anything about any contract made by these parties? A. Yes, sir.

Q. Then, was this answer true or false?

A. It was true, only by hearsay.

Q. What is that?

A. I never saw any written agreement. I don't think there was any written agreement in existence.

Q. The question is, you say "He has not to my knowledge? A. Yes, sir. That was my answer.

Q. Had you any knowledge at that time of any contract? A. Nothing only hearsay.

Q. Nothing only hearsay?

A. Perhaps there was a conversation between Mr. Lehman and myself in regard to that contract.

Q. And if there was, you knew about it at that time, didn't you? A. Yes, sir, I believe so.

Q. So, as you interpret it, it wasn't true? This was one of the cases in which you answered falsely.

A. Oh, I would say yes, that I answered falsely.

Q. And why had you to do it?

A. I had to do it under the terms of my contract, and according to the directions given me by Mr. Cobban, wherein I was to locate claims for these parties and get them to file on them, and pay their expenses to Helena and return, as well as for making final proof.

Q. What was there in this contract that required you to go before the land office and commit perjury?

A. Dollars and cents.

(Testimony of Chauncey L. Griswold.)

Q. Now, if there is any question you want to answer, I am perfectly satisfied that you should do so, if there is any.

By the EXAMINER.—Now what is that prior question? There is one there that he wants to answer.

(By Mr. WALSH.)—

Q. You want to answer one, do you?

A. Yes, sir, I do.

Q. Well, what is it?

A. "Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon"?

By Mr. WALSH.—Well, I don't care anything about it.

A. Well, I was interested in it.

Q. Well, that was another case in which you committed perjury?

A. There must have been. I couldn't say anything else under the contract with Mr. Cobban.

Q. Well, you can refuse to be a witness?

A. No, sir. If I had it would have taken so much money out of my pocket.

Q. Well, that was it, was it? A. Yes, sir.

Q. You did that simply to get all the money there was in it? A. Yes, sir.

Q. And how much money was there in it?

A. Five cents a thousand for the lumber.

(Testimony of Chauncey L. Griswold.)

Q. How many thousand on this land?

A. My recollection is that the estimate was five hundred thousand feet.

Q. That would be twenty-five dollars.

A. Yes, that was an unusually small claim.

Q. So that your perjury in this case was committed for the consideration of twenty-five dollars.

A. No, sir.

Q. How much more?

A. Well, in consideration of Mr. Cobban—Mr. Cobban made more money than I did.

Q. But you?

A. Under the terms of my contract I had to secure this land for Mr. Cobban.

Q. Well, the question, Mr. Griswold, to you was whether you got any more than twenty-five dollars out of this particular entry?

A. I had to secure this land for Mr. Cobban, or be responsible to him for the money.

Q. Now go on, Mr. Griswold. If you had refused to make the proof, the money would not have been paid to you, would it? A. No, sir.

Q. Now you can answer my question. How much money did you get out of this entry besides twenty-five dollars?

A. To the best of my recollection, twenty-five dollars.

Q. No, the question is, how much more than that?

(Testimony of Chauncey L. Griswold.)

A. None to the best of my recollection.

Q. According to your best recollection you got twenty-five dollars out of it? A. Yes, sir.

By the EXAMINER.—Under the provisions of the statute, before I can certify a question, I must be satisfied that it is a proper question to certify to the Court. I have come to the conclusion that the question with reference to what he did in the Bitterroot valley is not pertinent. It would be one that he could claim under the provisions of the statute, with reference to incriminating himself. All the other questions I think were proper, and the witness will be compelled to answer.

By Mr. BICKFORD.—Your Honor understands, perhaps, that we will approach the first question your Honor mentioned, from another direction.

By the EXAMINER.—Well, that is all right; I am only ruling on it now. If necessary, I will have the stenographer find these questions, because to-morrow morning you will have a different stenographer.

Q. I call your attention to Cash Entry No. 6188, Lelia T. Bryan, and to what purports to be your answer in the final priof in that case? A. Yes, sir.

Q. I ask you if that is your testimony.

A. Yes, sir.

Q. And whether that is your signature appended to it" A. Yes, sir.

Q. It appears that you were asked in that proof, the following question: "Do you know whether the appli-

(Testimony of Chauncey L. Griswold.)

cant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" to which you answered, "She is not to my knowledge." Was that your answer to that question?

A. Yes, sir.

Q. Was that true or false? A. False.

Q. Did you know it at the time? A. I did.

Q. Knew that you had committed perjury when you made that answer? A. I did.

Q. How much did you get for that perjury?

A. I couldn't say.

Q. Well, according to your best recollection?

A. I think in the neighborhood of forty dollars; it might have been more or less; I wouldn't say; I think there was eight hundred thousand feet of lumber on the claim.

Q. You think you got forty dollars out of it?

A. Yes, sir. Now, in connection with this I gave Miss Bryan a set of these papers prior to the time of her making application and proof, and a copy of the United States land laws, a copy wherein there is kept copies for her guidance, and we talked this matter over. She was a school teacher at Clearwater, and I was Chairman of the Board of Directors, and she seemed to hesitate in regard to making this proof, and I told her

(Testimony of Chauncey L. Griswold.)

it was the custom of the county; that it had been done in all cases, and that it was done in all cases, and had to be done in all cases, in order to acquire the land, and she finally concluded to take the land up.

Q. That is, you were not only willing to commit perjury yourself, but you were suborning a school teacher who was teaching your children, to do so.

A. I beg your pardon, I did not.

(WITNESS Continuing.) I was simply talking the matter over.

Q. Simply explaining it to her?

A. Yes, sir, that it was the custom of the country.

Q. Well, I show you the papers containing what purports to be your testimony in the final proofs of Miss Bryan, and ask you if it is your testimony and whether your signature is appended to it.

A. No, I beg your pardon, that isn't Miss Bryan.

Q. What knowledge have you concerning the Lelia T. Bryan entry that you didn't have at that time, other than those that you have told about in connection with the entry of Lehman?

A. I don't know that there is anything, only what I have already related.

Q. I show you the papers in connection with cash entry 6190, the same matter, and what purports to be your testimony, and ask you if that is your testimony.

A. Yes, sir, that is correct.

(Testimony of Chauncey L. Griswold.)

Q. And that is your signature to it?

A. Yes, sir.

Q. You were asked in connection with that proof in that case, the following question: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" to which you answered,"She has not to my knowledge." A. Yes, sir.

Q. You may state whether or not that answer is true or false.

A. It was the same directions that I gave to Mr. Charles A. Jackway, of Ovando.

Q. It was what?

A. That this land should be transferred to Mr. Cobban.

Q. The question is was that true or false?

A. It was true.

Q. It was what? A. True.

Q. Now further—

A. Under the direction that I gave to Mr. Jackway of Ovando, wherein she should transfer this land to Mr. Cobban immediately after making the final proof.

Q. Now when did you talk to Mr. Jackway about this? A. At various times during the year.

Q. When did you talk to Mr. Jackway, about the entry of Mrs. Bryan—Mrs. May Hawthorne?

(Testimony of Chauncey L. Griswold.)

A. I wouldn't say the month nor day; it was during the summer of 1899.

Q. Where?

A. At various times and various places. In other words, between Clearwater and Ovando.

Q. Did you say anything about the entry of Mrs. May Hawthorne?

A. He told me he had a sister living in the East that would like a claim, and that she was coming here on a visit.

Q. Now what did you say at any time or place to Mr. Jackway, concerning the entry of Mrs. May Hawthorne?

A. Why, I told Mr. Jackway that his sister, Mrs. Hawthorne, could go on and take up this claim under the same conditions that the rest of these other entry men and women had.

Q. And did you state to Mr. Jackway what those terms and conditions were? A. I did.

Q. What did you state to Mr. Jackway as to what the terms and conditions under which people could make these entries, were?

A. That Mr. Cobban would furnish money for all expenses in securing title from the Government for this land, and a hundred dollars to the entry man or woman, if I approved the selections.

Q. And was there anything else that you said to Mr. Jackway concerning the terms and conditions?

A. I cannot say as to that.

(Testimony of Chauncey L. Griswold.)

Q. That is all that you can remember that you told Mr. Jackway concerning the terms and conditions.

A. Yes, sir.

Q. Under which the entry could be made?

A. Yes, sir; that is, to my recollection. There might have been some such thing—some more said in regard to this location.

Q. Now where did you ever have any such conversation as that with Mr. Jackway?

A. Why at various times and places might have been at Ovando, or Cottonwood. I couldn't say where this conversation was had between him and I.

Q. Where did this Miss Hawthorne make this location?

A. I couldn't say as to that; I don't recollect where.

Q. You don't recollect where, you say?

A. I don't recollect where, exactly; it was northwest of Ovando, tributary to Mountain creek.

Q. Did you ever see the land?

A. I have been all over that country, yes, sir.

Q. Have you ever been on this land?

A. Yes, sir.

Q. When were you on there?

A. I couldn't say.

Q. Were you there with Mrs. Hawthorne?

A. No, sir, I was not.

Q. Did you ever see Mrs. Hawthorne?

A. No, sir, I did not.

(Testimony of Chauncey L. Griswold.)

Q. Did you ever have any talk with her about this entry?

A. I did not, never had seen her, and couldn't have had any talk with her.

Q. The first time you had any talk about this matter at all was with Mr. Jackway? A. Yes, sir.

Q. And that talk was to the effect that Mr. Jackway told you he had a sister in the east, who wanted to take up a claim? A. Yes, sir.

Q. What else was there said about Mrs. Hawthorne, or Mr. Jackway's sister?

A. Oh, that she was going to take up the claim and make final proof.

Q. Mr. Jackway said that, did he?

A. Yes, sir.

Q. What else did he say?

A. Well, I couldn't say.

Q. About his sister, Mrs. Hawthorne.

A. My recollection is that he said a hundred dollars wasn't enough; that he had a very good claim for her that he was holding under some law, being a United States Commissioner, and that he would put her on to it as soon as he came from the east, and that he thought he ought to get a little more, and I said, "That is all I am authorized to pay by Mr. Cobban. You can see him yourself." What Mr. Cobban paid, I don't know. I had no knowledge about that.

Q. That is all you know about Mrs. Hawthorne?

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. You don't know whether Mr. Cobban ever advanced her a cent or not?

A. No, sir, I don't know.

Q. You don't know whether he ever paid her erpenses or not?

A. No more than I know that Mr. Cobban had left funds with Jackway and Faust, of Ovando, or the payment of the expenses for those different entrymen and entrywomen.

Q. Were you present when he left the money or funds as you testified? A. I was.

Q. Did you ever hear the conversation between Mr. Jackway and Mr. Cobban? A. I did not.

Q. How do you know he left money there for that purpose? A. Because I saw him leave it.

Q. Didn't you say you never overheard this conversation? A. I did.

Q. Didn't you say a moment ago that you didn't overhear any conversation between Mr. Cobban and Mr. Jackway? A. No, sir, I did not.

Q. Did you hear that conversation? A. I did.

Q. Now tell us what that conversation was?

A. The conversation was that Mr. Cobban told them in my presence that he would pay the money they had to advance to these entrymen and entrywomen.

Q. And he left money there or funds there?

A. He left money there or funds there to pay others. Whether Mrs. Hawthorne received any of this money or not, I don't know.

(Testimony of Chauncey L. Griswold.)

Q. When was that?

A. During the summer of 1899, in the month of June, I believe.

Q. How many times were you and Mr. Cobban at Ovando together?

A. I couldn't say, three or four.

Q. When was that—how many times were you and Mr. Cobban at Ovando together?

A. I couldn't say, three or four. I went there with him first. I believe he told me it was the first time he was ever there, and I introduced him to Mr. Jackway and Mr. Faust.

Q. Which time was it that this occurrence that you are speaking if now took place?

A. I wouldn't say whether it was the first or the second time.

By the EXAMINER.—Will you keep on for some time longer?

By Mr. WALSH.—The cross-examination will take some time.

By the EXAMINER.—We will now take an adjournment until tomorrow morning, and I will have Mr. Cooper transcribe the two or three questions which the witness may be compelled to answer.

(Adjournment taken until Wednesday, December 18th, 1901, at ten o'clock A. M.)

(Testimony of Chauncey L. Griswold.)

Helena, Mont., Wednesday, Dec. 18th, 1901, 10 A. M.

Hearing resumed. Cross-examination of Mr. Griswold continued, by Mr. Walsh.

The EXAMINER.—Before we go on with the cross-examination of this witness, I desire to have the witness answer some questions. Yesterday afternoon I stated before adjournment on one question with reference to some money transactions in the Bitterroot valley, that I did not think that it was proper to ask the witness, and would therefore decline to certify it to the Court. But I will require the witness to answer these questions. On page 23 of the testimony: "Q. What facts do you know now of your own knowledge concerning the entry of Effie M. Kilburn, that you did not know at the time you made this answer in this testimony on the final proof? A. Oh, I wouldn't say as to that. Q. Well, I would like to ask you, do you understand the question, Mr. Griswold? A. I understand the question. Q. What facts do you know of your own knowledge concerning the entry of Effie M. Kilburn now, that you did not know at the time that answer was made? A. I won't answer. Q. You won't answer? A. No, sir." Then follows the request of Mr. Walsh: Now, Mr. Griswold, that is a question that you will be required to answer now; what facts do you know of your knowledge concerning the entry of Effie M. Kilburn, that you did not know at the time that answer was made?

(Testimony of Chauncey L. Griswold.)

A. Well, I know that Mrs. Effie M. Kilburn has transferred the land to R. M. Cobban.

(By Mr. WALSH.)

Q. Do you know of any other fact that you did not know at the time the proof was made, touching that entry?

A. No, sir, I don't believe I do.

The EXAMINER.—Then there is a similar question as to the entry of Mr. Kilburn at the time final proof was made: "Well, now, do you know any facts of your own knowledge touching the validity of this entry that you did not know at the time this final proof was made?" You can answer that.

A. If your Honor please, I don't think Mr. Kilburn made any entry at all under this contract.

The EXAMINER.—I think, Mr. Walsh, those are all the questions?

Mr. WALSH.—I think so.

The EXAMINER.—You can proceed with the cross-examination.

(By Mr. WALSH.)

Q. Mr. Griswold, I show you a paper purporting to be your testimony upon the final proof in connection with cash entry No. 6202 of Harriet Watson, and ask you if that is your testimony? A. Yes, sir.

Q. And your signature to it? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. You were asked in connection with that proof: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" To which you answered: "She has not to my knowledge." Was that your answer to that question? A. It is.

Q. State whether it was true or not.

A. It was true.

Q. What facts do you know of your own knowledge concerning the entry of Harriet Watson that you did not know at the time you made this answer?

A. I knew that I had made an agreement with her son, Marion B. Watson, for the transfer of this land to R. M. Cobban, or whom he might elect.

Q. Do you understand the question?

A. I do.

Q. The question is what facts do you now know concerning this entry that you did not know at the time you made this proof?

A. I know that Mrs. Watson has transferred her land to R. M. Cobban.

Q. Do you know any other fact?

A. —Under a contract between her son and myself prior to the time that they made application to purchase in the Helena land office.

(Testimony of Chauncey L. Griswold.)

Q. Were you present when the transfer was made from Mrs. Watson to Mr. Cobban? A. I was.

Q. Where did that take place?

A. I was present when the transfer was made as far as it could be made. Her husband, D. E. Watson, had to join Harriet Watson, his wife, in the transfer of the land; he was living at that time near Clearwater, in Deer Lodge County, Montana, and she was here.

Q. The question was, where did that take place; can you answer that question?

A. I have answered it. Read the answer, will you please?

(Answer read.)

Q. Did the transfer take place in Helena, is that what you mean?

A. As far as it went, yes, sir, it did.

Q. You know she executed the transfer in Helena?

A. To the best of my recollection, yes, sir.

Q. Were you present? A. I was present.

Q. At what place in Helena did it take place?

A. In Frank Rees' office.

Q. What was said by Mr. Cobban at that time?

A. Well, I couldn't go on and say the whole conversation.

Q. Whatever conversation there was, was there in the presence of Mr. Rees?

A. To my recollection, yes, sir.

Q. Mr. Rees heard it as well as you did?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir.

Q. Can you tell in substance what Mr. Cobban there said?

A. To the best of my recollection Mr. Cobban was not present at the first conversation that we had, or that I had with Mr. Rees, and my recollection is that I called Mr. Cobban from the Collins Land Company office to consult him in regard to the transfer of this one particular claim, and the transfer could not be made without the signature of her husband.

Q. Well, you knew all about this agreement with Watson prior to the time that you made this proof, didn't you? A. I did, yes, sir.

Q. What additional fact do you now know concerning this entry, except the fact that she did actually convey to Mr. Cobban?

A. And that I paid Mrs. Harriet Watson the hundred dollars according to my agreement with her son.

Q. You knew at the time that this final proof was made that you were going to do that?

A. I did, yes, sir; I didn't know it, but I was well satisfied of the fact.

Q. You knew two facts, first, that she conveyed to Mr. Cobban, and that you paid her one hundred dollars. Now, was there any other fact that you now know touching this entry that you did not know at the time that this final proof was made?

A. Nothing more than that the land was transferred

(Testimony of Chauncey L. Griswold.)

according to the agreement I had with her son, Marion B. Watson.

Q. What was said about the agreement at the time the transfer was made?

A. I told you my instructions were to go on and furnish—

Q. At the time that the transfer was made in Frank Rees' office, I wish you would state what you said to Mrs. Watson.

A. I told her that we were ready to take the deed.

Q. What else?

A. My recollection is that I was handed the deed already prepared, and we went to Mr. Reece's office to have the deed executed.

Q. I was not asking about that; I ask you what you said to her in Frank Rees' office concerning the execution of this deed?

A. Well, the principal part of the conversation was that her husband's name was 'Doc' and there was some objection to that; we thought that was a very unusual given name, and how we decided that I don't remember.

Q. Now, I wish you would state whether in Frank Rees' office there was one word said about any prior agreement concerning the sale or disposition of this land? A. I couldn't say that there was.

Q. I show you a paper purporting to be your testimony upon the final proof in connection with Cash Entry No. 6203, of Marion B. Watson, and ask you if that is your proof? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. And your signature to it? A. Yes, sir.

Q. You were asked in that proof the following question: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" To which you answered: "He has not to my knowledge." Was that your answer to that question? A. It was.

Q. Was it true or false?

A. Yes, sir, it was false.

Q. Did you know it was false at the time?

A. I did.

Q. So at that time you willfully answered this question falsely?

A. Yes, sir—not willfully, no, sir. I had to answer the question that way in accordance with the contract made on the 22d day of May, 1899, between myself and R. M. Cobban, and subsequent conversations in regard to paying out funds that R. M. Cobban had left in my possession for these parties.

Q. Were you acting under duress; was anybody standing over you with a revolver?

A. No, sir. I never had that done to me yet, although I have been threatened.

Q. Nobody scared you into doing this?

A. Nobody scared me until this present action; then they tried to scare me.

(Testimony of Chauncey L. Griswold.)

Q. Weren't you a free agent when you made this answer? A. No, sir, I was not.

Q. Why not?

A. Because I was acting under a contract binding me to do so and so.

Q. You refer to the contract of which you identified what you claimed to be a copy in the course of your direct testimony, do you?

A. Yes, sir, and subsequent conversations, where there was no written instrument.

Q. What obstacle was there, if any, to your refusing, if you so desired, to testify in this case or to answer this question as you did?

A. I don't know that there was any particular obstacle.

Q. So that, if you had desired to refuse to attend as a witness, or if you had answered this question otherwise than you did, you don't know of any physical obstacle to your doing so?

A. Physical, no, sir. Financially, I do.

Q. A financial obstacle? A. Yes, sir.

Q. Where did these subsequent conversations of which you now tell us for the first time, take place?

A. Well, if you will tell me the one you refer to.

Q. I am referring to those you referred to. You said that you were not a free agent in this matter by reason of your contract and by reason of certain conversations you had. What conversations were these and when and where did they take place?

(Testimony of Chauncey L. Griswold.)

A. Well, at various times and various places. I couldn't name the times; the places was Clearwater and Missoula and Ovando.

Q. To what effect were these conversations?

A. In regard to paying out this money that was left in my hands.

Q. What was the conversation?

A. That I shouldn't pay out money till I was sure of securing the land in the end, as far as I could go without a written agreement or instrument.

Q. Who told you that? A. Mr. Cobban.

Q. Where? A. At various times and various places.

Q. Now name one place.

A. Missoula, Clearwater and Ovando.

Q. Take the Missoula conversation; when was that?

A. I couldn't tell you.

Q. Could you tell us where it was?

A. In his private office.

Q. Who was present beside yourselves?

A. No one.

Q. Let us take the next conversation, where was that?

A. I couldn't say whether it was at Clearwater or Ovando, either one of the towns.

Q. Where was it at Ovando?

A. To my recollection it was on the street.

Q. It was not in Jakway & Faust's office?

(Testimony of Chauncey L. Griswold.)

A. No, sir.

Q. Jakway & Faust were doing some work in connection with this, weren't they? A. Yes, sir.

Q. You told us about their paying out some money?

A. Yes, sir.

Q. You didn't have any talk in their office?

A. I don't consider that they had an office, more than the postoffice.

Q. They had a store, hadn't they?

A. Yes, sir.

Q. There was not any conversation in the presence of those gentlemen? A. No, not touching this.

Q. I mean touching this matter? A. No, sir.

Q. Where was the other place?

A. At Clearwater.

Q. At what place at Clearwater?

A. Well, I couldn't say; I don't know whether we were in a building or outside; I know the conversation was there and held at that place.

Q. Now, these conversations that you now refer to, you told us, were to the effect that Mr. Cobban had instructed you never to pay out any money until you were sure that you could get the land?

A. Yes, sir, that was the substance of the conversation.

Q. Now, wasn't the conversation in fact, that you now refer to, to the effect that you must not make any bargain of agreement with anybody to take their land?

A. Not at this time.

(Testimony of Chauncey L. Griswold.)

Q. Well, what time was that?

A. Subsequent to this.

Q. I wish you would tell us about that, then.

A. To the best of my recollection, that conversation occurred between Mr. Cobban and myself at his office in Missoula about the first of September, 1899, after the principal portion of these applications to purchase were made.

Q. What was said?

A. He said at that time that he didn't want me to make any agreements. It seemed that he had become a little uneasy in regard to the number and manner in which he was securing these lands.

Q. Now, Mr. Griswold, I didn't ask you anything about that; I asked you what he said.

Mr. WALSH.—We move to strike ou t the remark of the witness to the effect that he seems he had become uneasy, etc.

Q. What was said?

A. I answered the question.

Q. What was it he said?

A. He said he didn't want me to make any contracts or agreement for the purchase of this land at that time, or from that time on.

Q. Contracts or agreements for the purchase of land?

A. Yes, sir, prior to the time of making the application to purchase.

Q. And what did you say as to the way in which the business was to be conducted?

(Testimony of Chauncey L. Griswold.)

A. Well, at the time he gave me the instructions to say to the different entry men and women that he would advance the money in the form of a loan.

Q. And that you were not to make any contracts for the purchase of the lands?

A. Prior to the parties making the application to purchase.

Q. Now, you had not prior to that time made any written agreements for the purchase of the lands, had you? A. No, sir.

Q. If you had made any agreements at all, they were oral agreements? A. Yes, sir.

Q. And he told you not to make any agreements?

A. About the first of September of that year he told me not to make any agreements further than this, that he would furnish the money for these parties to make their applications to purchase and their final proof, in the form of a loan.

Q. And that, if you made any agreements of purchase at all, those agreements of purchase must be made after the final proof was made?

A. Yes, sir, that is, after some time about the 1st of September, 1899.

Q. Where were you when you had that conversation?

A. In Mr. Cobban's office in Missoula.

Q. Who was present?

A. I couldn't say that anyone was. Mr. Cobban and I generally had our conversations in his private office.

(Testimony of Chauncey L. Griswold.)

Q. Will you swear that there was no one else present?

A. There was other people in the building; I don't think there was anybody else in the office where we were talking.

Q. Wasn't Mr. Pound there, and didn't he overhear the conversation?

A. He may have been; I wouldn't say that he was or was not, but I don't think he did.

Q. As a matter of fact, wasn't the thing said to you in Mr. Cobban's office repeatedly in the presence of Mr. Pound?

A. I wouldn't say; to my recollection it wasn't, because he had a private office and we generally talked in there in regard to these matters.

Q. What was the occasion of your being in Missoula at that time? A. I couldn't say.

Q. You don't know?

A. I was there, fulfilling the terms of my contract with Mr. Cobban.

Q. You don't know what the occasion was of your being there at that particular time?

A. No, sir, I wouldn't say.

Q. How many proofs had been made at that time?

A. Well, there had been several, I couldn't say just the number. The first proofs was made in the 1st day of August, 1899, to my recollection, under the term of this contract.

Q. Who was that?

(Testimony of Chauncey L. Griswold.)

A. Gilles and Cloutier, and from that time on they came in very rapidly, three or four and sometimes more in each day.

(By Mr. MAYNARD.)

Q. You mean by that the final proofs?

A. Yes, sir, the final poofs.

(By Mr. WALSH.)

Q. Do you recollect how many final proofs were made in August? A. I couldn't say.

Q. According to your best recollection, how many were?

A. In both land offices I should say that there was sixty.

Q. In the month of August?

A. Yes, sir, sixty, more or less.

Q. Do you know how many of the forty-eight that are in controversy in this action?

A. No, I don't.

Q. How many more people did you locate than those mentioned in this bill of complaint?

Mr. MAYNARD.—You mean under the Stone and Timber Act?

Q. Under the Stone and Timber Act?

A. I don't think that I located any more under the Timber and Stone Act than is mentioned in the bill of complaint.

Q. That is, all that you were concerned with are mentioned in the bill of complaint?

(Testimony of Chauncey L. Griswold.)

A. That is all, with the exception—no, I think that is all; I think they are all mentioned in the bill of complaint.

Q. I show you what purports to be your testimony in connection with the final proof in the case of cash entry No. 6204, of Charles H. Moss, and ask if that is your testimony? A. It is.

Q. And your signature to it? A. Yes, sir.

Q. In this case you are asked: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever, by which any title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" To which you answered: "He has not to my knowledge." Was that your answer to the question? A. It was.

Q. Was it true or false? A. It was true.

Q. What facts do you know concerning the entry of Charles H. Moss that you did not know of your own knowledge at the time that you made this proof?

A. I know that the lands have been transferred to R. M. Cobban by a warrantee deed.

Q. Do you know of any other fact?

A. No, sir, I do not. This was a particular location that I selected and gave the numbers to Mr. R. M. Cobban at Missoula, and he brought Mr. Moss and one other and put them on the land himself.

Q. What do you mean by put them on the land?

(Testimony of Chauncey L. Griswold.)

A. Showed them the boundaries,

Mr. MAYNARD.—May I ask who was the other one?

The WITNESS.—Mr. Dorman; Harry Dorman, I think his name was.

Q. I show you the proof in connection with the entry of Harry Dorman, Cash Entry No. 6205?

A. That is the one.

Q. This is what purports to be your testimony in that case, and I ask you if that is your testimony and your signature to it? A. It is.

Q. In connection with this entry you are asked: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title he may acquire from the Government of the United States may inure in whole or in part to any person except himself?" To which it appears you answered, "He has not to my knowledge." Was that your answer to that question? A. It was.

Q. Was it true or false. A. Absolutely true.

Q. What facts do you now know of your own knowledge concerning the entry of Harry C. Dorman that you did not know at the time that you made this proof?

A. I know that Mr. Dorman has transferred his land to R. M. Cobban of Missoula.

Q. Do you know any other facts now touching that entry that you did not know at the time the proof was made?

(Testimony of Chauncey L. Griswold.)

A. No, sir, I do not, more than that the land is transferred to R. M. Cobban.

Q. I said more than that.

A. No, nothing more than that.

Q. I show you what purports to be your testimony in connection with the final proof in the case of Cash Entry No. 6208, Katie Watson, and ask you if that is your testimony and signature to it? A. It is.

Q. In connection with that final proof you were asked: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" To which you apparently answered: "She has not to my knowledge." Was that you answer to the question? A. It was.

Q. Was it true or false? A. It was false.

Q. Did you know at the time you made this answer that it was false?

A. From the statement that her husband made to me, which was, that she would transfer immediately after making final proof.

Q. The question is, Did you know at the time you made this answer that it was false?

A. From her husband I did.

Q. So at the time you made this answer, you intended willfully to answer the question falsely?

(Testimony of Chauncey L. Griswold.)

A. Not willfully, no, sir.

Q. Do you know what willfully means?

A. I do.

Q. What do you understand willfully to mean?

A. Well, in this place it it would be with the intent to defraud, wrongfully, maliciously.

Q. That is not the meaning of the word "willfully" at all.

A. Well, explain it; that is my understanding of it.

Q. I will explain the word willfully to you. Willfully means intending to do the thing that was done. With reference to the question, it means intending to answer the question as it was answered, not by accident or surprise, but intending to do it, and not being under duress, that is to say, not being under threats or fear or force.

A. I was under no threats, but I was under my contract and agreement—

Q. You were at perfect liberty, however?

Mr. MAYNARD.—Have you finished your answer?

The WITNESS.—I was under a contract and agreement both with R. M. Cobban and with M. R. Watson for the transfer of this land immediately after final proof was made, for and in consideration that Mr. Cobban would pay all expense incurred in securing title thereto from the Government, and one hundred dollars in excess thereof.

Q. Except so far as you were under any obligation

(Testimony of Chauncey L. Griswold.)

by reason of this contract that you speak of, did you answer this willfully?

A. No, sir, I didn't answer it willfully at all.

Q. Why didn't you answer it willfully?

A. Because it is the custom of the country to answer the question the same as I answered it there.

Q. You could follow the custom or depart from the custom, couldn't you, if you wanted?

A. I suppose that I could, but I was under a contract with both parties for the transfer of this land, and I had to answer the question in that way.

Q. I show you what purports to be your testimony in connection with Cash Entry No. 6213, of Doc E. Watson, and ask you if that is your testimony and your signature to it? A. It is.

Q. You were asked in connection with that: "Do you know whether the application has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" To which you apparently answered: "Not to my knowledge." Was that your answer?

A. It was.

Q. Was that true or false?

A. The same conditions exactly governed this claim that governed the other two Watson claims.

Q. Answer the question, please; was it true or false?

A. It was false.

(Testimony of Chauncey L. Griswold.)

Q. Did you know at the time it was false?

A. I did.

Q. I call you attention to what appears to be your testimony in connection with Cash Entry No. 6216, Charles B. Sperry, and ask you if that is your testimony? A. It is, yes, sir.

Q. And your signature to it?

A. No, sir, that is not my signature.

Q. Didn't you write that?

A. I wrote it, yes, sir, under directions from the officials of the land office. It seems there had been—

Q. I haven't asked you anything about that; answer my question; you signed it? A. I did, yes, sir.

Q. Now, you were asked this question: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title he may acquire from the Government of the United States may inure in whole or in part to the benefit on any person except himself?" To which you apparently answered: "He has not to my knowledge." Was that your answer?

A. Yes, sir.

Q. Was it true or false? A. It was true.

Q. Do you know any facts concerning this entry now that you did not know at the time that this proof was made, except the fact that the entrymen has since conveyed to R. M. Cobban?

A. Yes, sir, I do.

(Testimony of Chauncey L. Griswold.)

Q. What is the other fact that you know about this?

A. I know that there was an understanding between Mr. McConnell and myself in regard to Mr. McConnell's claim.

Q. Mr. Griswold, I want to interrupt you. Do you understand the question? A. Yes, sir.

Q. What fact do you now know that you did not know at the time this proof was made?

A. There was an agreement between Mr. Connell and myself that if these two claims were taken, they would transfer the two claims to R. M. Cobban, or whom he might elect.

Q. Was that agreement made before this final proof? A. With Mr. McConnell? Yes, sir.

Q. Now, do you understanl this question?

A. Go ahead and ask your question.

Mr. WALSH.—We move to strike out the answer as to the agreement between the witness and Mr. McConnell, as not responsive.

Q. The question is, Do you know any fact now that you did not know at the time this proof was made, concerning this entry, except that the land has since been conveyed to R. M. Cobban?

A. I answered the question. Mr. Sperry himself and I had very little conversation, if any.

Mr. WALSH.—I desire an answer to the question.

The EXAMINER.—Yes, you must answer the question. Read the question.

(Testimony of Chauncey L. Griswold.)

Q. (Question read.)

A. No, I don't.

Q. You understood that question when I put it to you in the first place, didn't you? A. Yes, I did.

Q. And you understood that the testimony that you were giving was concerning something that transpired before this final proof? A. Yes, sir.

Q. And you knew that I asked you about facts transpiring since then? A. Yes, sir.

Q. Then why did you answer that in the way you did?

A. Because I wanted to explain the thing. Mr. Sperry was on the stand yesterday, and I believe he is a man that will tell the truth at any time and in any place.

Q. Did you answer my question? A. I did.

Q. The best you knew how? A. Yes, sir.

Q. And when I asked you about facts transpiring since that time, fully understanding the question, the answer you gave was to detail facts transpiring before this final proof.

A. Yes, sir. More than that, the fact is that I went on to this land with Mr. Sperry and Mr. McConnell and approved of the selection.

Q. Was that before or after this final proof?

A. Before.

Q. You knew that at the time this final proof was made? A. Yes, sir.

Q. You knew I didn't ask you about that?

(Testimony of Chauncey L. Griswold.)

A. No, sir, I knew you didn't ask me about that.

Q. You knew, did you not, that I asked you exclusively about facts transpiring since you made this final proof, did you not?

A. Yes sir, that is correct.

Q. I call your attention to what appears to be your proof in connection with entry No. 6217, of Thomas McConnell, and ask you if that is your proof and your signature to it?

A. Yes, sir—No, no, it is not my signature; I don't say that.

Q. Did you write that?

A. I did.

Q. You were asked in that connection: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title he may acquire from the Government of the United States any inure in whole or in part to the benefit of any person except himself?" To which you apparently answered "He has not to my knowledge." Was that answer true or false? A. It was false.

Q. Did you know at the time that it was false?

A. I did.

Q. I show you what purports to be your testimony in connection with Cash Entry No. 6120, of Charles Cloutier, and ask you if that is your testimony and your signature? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. You were asked in connection with that entry: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title he may acquire from the Government of the United States any inure in whole or in part to the benefit of any person except himself?" To which you answered: "He has not to my knowledge; I feel certain he has not." Was that your answer to that question?

A. I don't know, sir. Let us see it—Yes, sir.

Q. Was that true or false? A. It was false.

Q. Did you know at the time that you answered that in that way; that it was false?

A. Yes, sir, because there was a distinct understanding between Mr. Cloutier and myself that he would transfer the land immediately on making his final proof.

Q. I show you what purports to be your testimony in connection with Cash Entry No. 6121, of John Gilles, and ask you if that is your testimony and your signature? A. Yes, sir.

Q. It appears that you were asked in that connection: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title that he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" To which you apparently answered: "Not to my knowledge; I am

(Testimony of Chauncey L. Griswold.)

sure he has not." Was that your answer to that question? A. It was, yes, sir.

Q. Was that true or false? A. False.

Q. Did you know at the time you made that answer that it was false?

A. Only as far as hearsay.

Q. What did you hear that made you sure that he had not made any such agreement?

A. I hadn't heard anything that made me sure that he had not.

Q. Why did you answer that question that way?

A. I had to do it in order to secure the land.

Q. I show you what appears to be your proof in connection with Cash Entry No. 6136, of Thomas Pelky, and ask you if that is your testimony and your signature? A. Yes, sir.

Q. It appears that you were asked in connection with this matter: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" To which you answered: "Not to my knowledge." Was that your answer to that question? A. It was.

Q. Was it true or false? A. True.

Q. What knowledge have you now concerning the entry of Thomas Pelky that you did not have at the

(Testimony of Chauncey L. Griswold.)

time that you made this final proof, other than the fact that he has since conveyed to R. M. Cobban?

A. I have none.

Q. I show you what purports to be your testimony in conection with Cash Entry No. 6137, of B. Frank Chattin, and ask you if that is your testimony and your signature to it? A. Yes, sir.

Q. You were asked in that connection: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States any inure in whole or in part to the benefit of any person except himself?" To which you answered: "He has not to my knowledge." Was that your answer to that question? A. It was.

Q. Was it true or false? A. True.

Q. What knowledge have you now concerning the entry of B. Frank Chattin which you did not have at the time this proof was made, other than the fact that he has since coveyed to R. M. Cobban?

A. That is all.

Q. Now, Mr. Griswold, you told us, I believe, that in the making of your own timber claim entry, and in these entries concerning which you have been interrogated, are the only instances in which you have ever willfully sworn falsely? A. Yes, sir.

Q. In other words, that these instances that you have spoken of are the only times that you ever testi-

(Testimony of Chauncey L. Griswold.)

fied or made an affidavit to facts that you knew not to be true? A. Yes, sir.

Q. Did you make this affidavit? (Showing paper.)

A. Yes, sir, that is my signature.

Mr. WALSH.—We offer this affidavit in evidence as part of the cross-examination.

The EXAMINER.—That will be marked Exhibit "E." Do you want it copied into the record and also kept as an exhibit by itself?

Mr. WALSH.—It is immaterial to us. It might as well be copied into the record, I expect. It can be copied into the record without being read at length?

The EXAMINER.—Yes, and then it will be kept by me as a separate exhibit.

Said affidavit, marked Defendant's Exhibit "E," is as follows, to wit:

I do hereby certify that I have compared the original affidavit with the following copy and the same has been correctly copied.

HENRY N. BLAKE,
Examiner.

Defendant's Exhibit "E."

State of Montana,
County of Missoula. } ss.

C. L. Griswold, being first duly sworn according to law, on his oath deposes and says: That he is the plaintiff in an action now pending in the District Court of

(Testimony of Chauncey L. Griswold.)

Missoula County, Montana, in which Robert M. Cobban is defendant; that during the years 1899 and 1900 affiant was employed by said defendant and during said employment defendant became indebted to affiant in th sum of several thousand dollars, and in the settlement which occurred in December, 1900, affiant felt aggrieved at not being allowed all that he believed himself entitled to from defendant and subsequently brought said action to force defendant to make the settlement affiant believed to be due him.

Affiant further states that in truth and in fact affiant has no knowledge of any acts done or authorized by said Robert M. Cobban in the procurement of title to lands taken by parties under the Timber and Stone Act of Congress which were in violation of said acts or in violation of any law of the United States relative to the acquiring of title to lands, and that the instructions of said Cobban to this affiant while in his employ were always to the effect that no contracts for the purchase of timber and stone claims should in any case be made prior to final proof thereon in the United States Land Office.

C. L. GRISWOLD.

Subscribed and sworn to before me this 12th day of June, A. D. 1901.

[Notarial Seal] HENRY C. STIFF,

Notary Public in and for Missoula County, State of Montana.

(Testimony of Chauncey L. Griswold.)

Q. Who was present up at Harry Zayas' when you paid this money to these men? A. No one.

Q. Who were these parties to whom you paid the money at Zayas'?

A. Charlie Cloutier and John Gilles.

Q. How much did you pay each of them?

A. I think I have it here, the exact amount—well, I paid Mr. Cloutier one hundred dollars over and above the expense and cost of securing the land, and Mr. Gilles, I have forgotten the exact amount of money that I did pay him.

Q. You told it upon direct examination the other day; you couldn't have forgotten since, Mr. Griswold, could you?

A. My recollection of it is that I paid Mr. Gilles about two hundred and fifty dollars over and above the cost. At this same time in a settlement between Gilles and I, I was paying Gilles for work that he had already performed for me, and giving him credit for it.

Q. You are telling me a lot that I have not asked about.

A. —And he was at the same time making a payment to me for property that he had bought from me.

Mr. WALSH.—I don't think the witness has a right to rattle along this way.

The EXAMINER.—No, he has not. Read the question and let him answer.

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—His counsel will give him an opportunity to explain all these matters if he desires.

The EXAMINER.—Yes, fully. What was the question?

Mr. WALSH.—This is no way to conduct an examination.

Q. (Question read.)

A. To the best of my recollection it was two hundred and fifty dollars or about that, over and above the cost of securing title to the land.

Q. And how much did you pay Mr. Cloutier?

A. One hundred dollars over and above the cost of securing the land.

Q. How much money did you pay Mr. Cloutier at Harry Zayas' saloon?

A. I couldn't say, more than that.

Q. You did say on your direct examination, didn't you?

A. I believe I answered it the same, one hundred dollars over and above the cost of securing the land.

Q. Well, how much did you pay him for securing the land?

A. I couldn't say what the expense was now at this time.

Q. You understand the question, don't you? How much money did you give Cloutier at Harry Zayas' saloon? A. I can't say.

Q. How much money did you give Gilles?

A. I can't say.

(Testimony of Chauncey L. Griswold.)

Q. Didn't you say you gave him about two hundred and fifty dollars?

A. Over and above the cost of securing the land, yes, sir, on this transaction.

Q. Mr. Griswold, why don't you answer the question? A. I try to.

Q. Do you know whether you gave him ten dollars in Harry Zayas' saloon or not? A. Yes, sir.

Q. Do you know if you gave him twenty dollars?

A. I do.

Q. Do you know if you gave him one hundred dollars? A. Yes, sir.

Q. Do you know if you gave him two hundred and fifty dollars?

A. I do; that is my recollection of it.

Q. In what form was this money paid to Gilles?

A. Currency.

Q. What kind of currency?

A. United States currency.

Q. Bills? A. Yes, sir.

Q. How was the money paid to Cloutier?

A. Currency.

Q. How much did the Gilles land cost?

A. My recollection is that is cost about eight hundred dollars.

Q. The Gilles land?

A. Yes, sir—What do you mean, I don't understand the question, if you please.

(Testimony of Chauncey L. Griswold.)

Q. How much did you pay in the land office for the Gilles land?

A. Four hundred and one dollars is my recollection of it; I was thinking of the other transfer.

Q. What other expenses were there upon this entry?

A. The expenses of Mr. Gilles from Clearwater to Missoula and from Missoula here, and his return trip, to make the filing.

Q. How much did that amount to?

A. I couldn't say at this time.

Q. How did he come from Clearwater to Missoula?

A. My recollection is that he went by stage; he may have went by private conveyance.

Q. How much does that cost?

A. Why, I should suppose about four dollars.

Q. From Clearwater to Missoula by stage?

A. Yes, sir.

Q. How far is it?

A. Why, it is forty-two or forty-five miles, or in that neighborhood; I think we call it forty-two miles.

Q. Four dollars from Clearwater to Missoula and four dollars back? A. Yes, sir.

Q. What is the fare from Missoula to Helena and return?

A. At that time it was seven dollars and—I have forgotten; I think I have got it here.

Q. Well, eight dollars we will say; not more than eight? A. Not more than that.

(Testimony of Chauncey L. Griswold.)

Q. Eight dollars both ways, and eight dollars both ways in and out from Clearwater? A. Yes, sir.

Q. That would make sixteen?

A. Yes, sir.

Q. How long does the trip take?

A. And there are hotel bills—It takes a day from Clearwater to Missoula, necessitating hotel bills for dinner; over night in Missoula and over night in Helena.

Q. It would take three days then to make the trip?

A. A man couldn't do it in three days.

Q. Well, we will say four days?

A. At that time he got in here, my recollection is, about ten o'clock in the evening.

Q. Well, we will say four days?

A. Yes, four days.

Q. His expenses would be two dollars a day?

A. Yes, I would suppose.

Q. That would cover it all right?

A. Yes, sir.

Q. That would be eight dollars? A. Yes, sir.

Q. So that the expenses of coming here would be eight, sixteen, and eight would be twenty-four—twenty-five dollars would cover it?

A. Yes, sir, I should suppose that. They may have at that time demanded in the land office a ten-dollar fee at the time of making the filing.

Mr. MAYNARD.—Didn't they, as a matter of fact?

A. I think they did; that is my recollection.

(Testimony of Chauncey L. Griswold.)

(By Mr. WALSH.)

Q. Ten dollars for a filing? A. Yes, sir.

Q. And on the final proof two witnesses were needed? Yes, sir.

Q. Their expenses would be about the same?

A. Just about.

Q. Twenty-five dollars apiece?

A. Just about the same, yes, sir.

Q. What is the cost of advertising?

A. At that time I think it was fifteen dollars, but I am not sure as to that amount; that is my recollection of it now.

Q. Have you got a memorandum of the amount that you gave Gilles for expenses?

A. No, sir, I have not.

Q. Have you got a memorandum of the amount paid to the other witnesses for their expenses?

A. I have in some cases, yes, sir.

Q. Have you in this case?

A. I don't think that I have, not an entire memorandum.

Mr. WALSH.—I would like to have that exhibit, which was the account of Mr. Griswold against Mr. Cobban.

The EXAMINER.—Yes, sir.

The WITNESS.—Now, when I say that I have not—I think that I have this at home, but not here; I didn't suppose it would be drawn up here.

(Testimony of Chauncey L. Griswold.)

The EXAMINER.—Here it is; that has been copied into the record.

Mr. WALSH.—I think there is another one there.

The WITNESS.—No, that is all there is.

The EXAMINER.—Is it this one with the claims?

Mr. WALSH.—No, that is not it. There is another exhibit, which was an account presented by Mr. Griswold against Mr. Cobban, other than this account.

The EXAMINER.—Well, Mr. Cooper has got that and has failed to return it to me. I will see that you have it within five minutes; you can go right along.

Q. Were there any other expenses in connection with this entry of Gilles besides these that you have spoken of?

A. More than making the application to purchase and the final proof.

Q. Well, you have told us about that, the application to purchase, twenty-five dollars coming down here and ten dollars land office fees.

A. I believe there was one dollar or such a matter in connection with this entry, or in making the transfer.

Q. For taking testimony?

A. No, in making the transfer.

Q. One dollar for drawing the deed?

A. I think so.

Q. Anything else?

A. Not that I remember of.

(Testimony of Chauncey L. Griswold.)

Q. You charged Mr. Cobban something over eight hundred dollars for this, didn't you?

A. Yes, sir.

Q. How did you figure that out?

A. I don't know; I couldn't say anything about that.

Q. As a matter of fact, you didn't pay within fifty dollars of that amount for this entry, did you?

A. How do you know?

Q. I am asking you.

A. I know that I gave Mr. Cobban a statement showing that amount of money, which was true, and Mr. Cobban never hesitated a second in giving me credit for it.

Q. Could you tell us where the amounts came in?

A. I cannot; I have forgotten; it is a long time ago.

Q. You can't think now of any more items than these that you have given here, can you?

A. No, sir, I cannot. There may have been—

Q. Have the estimates been reasonably liberal in the matter of expenses, twenty-five dollars each to come from Clearwater here and back again?

A. I should suppose that they were, yes, sir.

Q. Now, we will foot these up, if you please. Four hundred and one dollars you paid in the land office?.

A. Yes, sir.

Q. Twenty-five dollars for the trip here to make the original sworn statement, and seventy-five dollars for three for the final proof, making one hundred dollars?

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. That would make five hundred and one dollars, wouldn't it?

A. I haven't figured it; I presume so.

Q. Ten dollars, you say, they charged at the land office? A. That is my recollection.

Q. That would make five hundred and eleven?

A. Yes, sir.

Q. Seven dollars and a half for printing, or fifteen, which is it?

A. Fifteen is my recollection of it at that time.

Q. That would make five hundred and twenty-six?

A. Yes, sir.

Q. And two hundred and fifty you gave Gilles?

A. That is my recollection; it may have been more or less.

Q. That makes only seven hundred and seventy-six dollars? A. Yes, sir.

Q. And you charged him something over eight hundred dollars?

A. Yes, sir. I kept an account of that at the time on a slip of paper, and I left it in Mr. Cobban's office when I returned to Missoula.

Q. The aggregate was something over eight hundred dollars?

A. It was about eight hundred dollars, is my recollection.

Q. You cannot now think of any other expenses that you had? A. No, sir, I cannot.

(Testimony of Chauncey L. Griswold.)

Q. That also includes your own expenses here upon that proof, doesn't it? A. Yes, sir.

Q. And at the same time you were a witness on the Cloutier proof?

A. Yes, sir, I made that proof at the same time.

Q. And as a matter of course you figured in your expenses on the Cloutier proof too?

A. Sure; yes, sir.

Q. Now, are you sure that you paid one dollar to Gilles up in Harry Zayas' saloon? A. Yes, sir.

Q. And you told us, Mr. Griswold, that Mr, Gilles had bought out your place, and was heavily indebted to you, and that by reason of that fact you asked Mr. Cobban to allow him something more than the rest of them?

A. At about the time he made his application to purchase this conversation occurred between Mr. Cobban and myself.

Q. Had Mr. Gilles paid you for the place in the time intervening from when he made his sworn statement to the time he made his proof?

A. No, sir, he hadn't.

Q. Wasn't he, as a matter of fact, still indebted to you at the time he made this final proof?

A. He was, yes, sir.

Q. How much did he owe on the place?

A. I couldn't say.

Q. How much did you agree to sell him the place for? A. Fifteen hundred dollars.

(Testimony of Chauncey L. Griswold.)

Q. How much had he paid you on the place prior to that time? A. That I couldn't say.

Q. How much had he paid you according to your recollection at that time?

A. Well, I couldn't say that.

Q. Had he paid you five hundred dollars?

A. No, sir.

Q. He was still owing you at that time something over a thousand dollars? A. Yes, sir.

Q. And notwithstanding that fact you paid him in cash two hundred and fifty dollars in Harry Zayas' saloon?

A. Yes, sir, and at that time and place Mr. Gilles turned right around and paid me back all that money that he received, with the exception of one hundred dollars.

Q. Now, you want us to understand that you paid him over two hundred and fifty dollars, and then he paid you back? A. Yes, sir.

Q. How rapidly were those transactions following each other?

A. Why, it was done at the same sitting. We were in one of the private rooms at Zayas' liquor store.

Q. Mr. Cloutier and Gilles and yourself?

A. Mr. Gilles and myself.

Q. Cloutier was not there? A. No, sir.

Q. It was at the same sitting that you paid this two

(Testimony of Chauncey L. Griswold.)

hundred and fifty dollars over to Gilles and he paid you back? A. Yes, sir.

Q. Mr. Gilles is dead, is he not?

A. Yes, sir.

Q. When did he die?

A. My recollection is a little better than a year ago; probably sixteen or eighteen months.

The EXAMINER.—Mr. Walsh, I could not find that exhibit; the stenographer thinks that Mr. Maynard or Mr. Zevely may have it. I will see this noon that it is found and produced.

Mr. WALSH.—Yes, sir; it was a memorandum—

The EXAMINER.—I remember the exhibit perfectly. Mr. Cooper was to copy it into the record, and that is the way it passed out of my hands.

Q. Who was the first person that you located under this agreement that you claim to have had with Mr. Cobban?

A. Well, I couldn't say that. I located Gilles and Cloutier; they were the first two; I located them the first day, the same day, and which was first or had priority over the other, I could not say.

Q. Now, did you come along to Helena with Gilles at the time he made his filing A. No, sir.

Q. Who did?

A. Why, he told me that Mr. Cloutier went with him; that is all I know.

Q. You don't know then? A. No, sir.

(Testimony of Chauncey L. Griswold.)

Q. You say you went along with him when he made his final proof?

A. Yes, sir, when he made his final proof.

Q. And you were a witness for him upon his final proof? A. I was.

Q. Now, what else did you have to do with the making of that final proof?

A. More than to be a witness?

Q. Yes. A. Nothing that I remember of.

Q. Who were in that party?

A. Mr. Gilles and myself came from Missoula to Garrison, and there we picked up Mr. Cloutier, and then we three came to Helena.

Q. Who attended to the payment for the land in the land office? A. I did.

Q. You paid for it? A. Yes, sir.

Q. Whom did you pay?

A. Well, I couldn't say whether I handed the payment to Mr. Greene or Mr. Horsky, it was to one or the other of those gentlemen.

Q. Are you sure you paid either?

A. Yes, sir, I am sure that I did.

Q. Do you recollect the fact?

A. Yes, sir, I do.

Q. Where did you get the money?

A. I got it from Mr. Cobban.

Q. When did you get it from Mr. Cobban?

(Testimony of Chauncey L. Griswold.)

A. My recollection is, about the 28th or 29th day of July, 1899.

Q. Where did you get the money?

A. At Ovando, in the form of a check on the First National Bank is my recollection.

Q. The First National Bank of Missoula?

A. Yes, sir.

Q. Was that this twenty-seven hundred dollar check that you told about?

A. A portion of it, yes, sir.

Q. A portion of that money? A. Yes, sir.

Q. Where did you get that check cashed?

A. My recollection is that I brought the check to Helena, and got P. M. Collins to go to the bank and identify me, one of the banks immediately above the Grand Central Hotel in Helena.

Q. You got the check cashed there?

A. Yes, sir; that is my recollection of it.

Q. Got the currency? A. Yes, sir.

Q. Did you open an account there?

A. No, sir.

Q. You got the cash? A. Yes, sir.

Q. When was that with reference to the time that you made this Gilles proof?

A. Immediately prior.

Q. That same day? A. Yes, sir.

Q. In what way was this money given to you?

A. In currency, bills.

(Testimony of Chauncey L. Griswold.)

Q. Immediately before the Gilles proof was made?

A. A short time before, yes, sir.

Q. You got it cashed for the purpose of paying for the land upon these two proofs?

A. Yes, sir, and others.

Q. Were you making any other proofs that same day? A. Not that same day, no, sir.

Q. You mean for such other proofs as were subsequently to be made? A. Yes, sir.

Q. But you got it cashed at that particular time so that you could pay for this particular land in the land office? A. Yes, sir.

Q. And you paid for it at the land office, did you?

A. I did.

Q. How did you pay for it at the land office?

A. My recollection of this payment for those two claims is that I purchased scrip from the Collins Land Company, in full or in part payment, I wouldn't say which.

Q. Didn't you tell us on your direct examination that you paid for this land at the land office in cash?

A. I presume that I did, but it has come to my knowledge since that I made a mistake, and I am very positive now that I paid for it partially, if not fully, in scrip.

Q. How much did you pay for that scrip?

A. I couldn't say; two dollars and a half an acre is my recollection of it.

(Testimony of Chauncey L. Griswold.)

Q. That is, you paid for the scrip exactly what you would have to pay in cash in the land office?

A. Yes, sir.

Q. What was your purpose in buying scrip?

A. The only purpose that I had was that Mr. Jakway of Ovando said that he had an arrangement with Mr. Collins whereby he was to get a commission, and he requested me to buy this scrip from the Collins Land Company in place of using cash, so that he could get a commission on it, and my recollection is that I spoke to Mr. Greene and asked him if it would be as satisfactory to pay for that land in scrip as it would be in cash.

Q. And you found it possible at that time to buy scrip at two dollars and a half an acre?

A. Yes, sir.

Q. What kind of scrip did you buy?

A. I couldn't say as to that.

Q. You just know that you paid two dollars and a half an acre for the scrip?

A. That is my recollection of it, yes, sir.

Q. At least, that is what you charged Mr. Cobban?

A. I charged Mr. Cobban that amount, yes, sir.

Q. You charged him four hundred dollars for the land?

A. Four hundred and one dollars was paid into the land office—eight hundred and two dollars was paid into the land office.

(Testimony of Chauncey L. Griswold.)

Q. Four hundred dollars was the purchase price in each case?

A. Yes, sir; eight hundred and two dollars altogether for the two claims, and the land office fees.

Q. Are there any of these tracts concerning which you have testified, as to which you can testify from your own knowledge; do you know any particular entryman that entered and particular tract, without referring to the bill or any other memoranda for the purpose of refreshing your recollection?

A. I don't know that I can give the exact descriptions, further than the section, township and range; I could give them, but I don't know that I could give the description.

Q. Now, these two men, Gilles and Cloutier, you say went out, when you made this suggestion to them about what they could do, and looked over the land?

A. Yes, sir.

Q. Did you indicate to them the tracts that they might go to?

A. I went with them and showed them to them, took them on the land.

Q. Is that what you testified to on your direct examination?

A. To the best of my recollection, yes, sir.

Q. What is your recollection now as to the fact?

A. That we three went together on to this land.

Q. What did they say about it?

(Testimony of Chauncey L. Griswold.)

A. Well, they asked me if I would approve of the selections if they made it, and I told them that I could.

Q. What else?

A. They said they would take it.

Q. Where did you go with these two men Cloutier and Gilles to select claims?

A. My recollection is that we first went into section ten, township fourteen north, range thirteen west, and didn't find anything there that suited those two men and we continued our tramp; my recollection is that we were out three days on that trip.

Q. You took them to some claims in section ten in the first place? A. Yes, sir.

Q. Some claims that you had in mind for them?

A. No, sir.

Q. Some claims that you had in mind for the purpose of making entries on them? A. Yes, sir.

Q. And the claims that you called their attention to were not satisfactory to them? A. Yes, sir.

Q. What did they say about it?

A. Well, they said they would go on further. We were out for the purpose of looking up claims under this contract. Mr. Gilles was in my employ and I took him with me.

Q. Mr. Gilles was out looking for a claim for himself at that time, wasn't he?

A. Not wholly.

Q. When did you first employ Mr. Gilles?

(Testimony of Chauncey L. Griswold.)

A. I couldn't say as to that; Mr. Gilles worked for me two or three years.

Q. These two men were the first two men that you located, were they not?

A. That is my recollection of it, yes, sir.

Q. And didn't you tell in direct examination that you went out, that you had selected a claim for them and went out with them to these claims on section ten?

A. No, sir.

Q. You didn't? A. No, I don't think I did.

Q. Isn't that the fact?

A. Not to my recollection.

Q. Did you find some claims on section ten?

A. We did, which were subsequently taken.

Q. And you suggested to these two men their taking those claims on section ten?

A. I don't know that I did. I told them that there were two claims that were worth taking on section ten, and they wasn't hardly satisfied with them, and said that they could find something better.

Q. They were satisfactory to you?

A. Why, I could approve of them, yes, sir.

Q. But Gilles and Cloutier were not satisfied with them? A. Not fully.

Q. And so they went further and found some other claims more satisfactory to them? A. Yes, sir.

Q. How long after you were on section ten did you finally select the claims that they eventually entered?

(Testimony of Chauncey L. Griswold.)

A. I couldn't say whether it was the same day or the next day; it was on that trip, after leaving my place at Clearwater, and whether we were gone two or three days I can't say.

Q. Now, as far as you know, everybody except these two Watson women that you were concerned in locating went upon the ground and examined it?

A. They may have gone upon the ground prior or subsequent to the time that Mr. Watson and I went on, but I never saw them on the land.

Q. The question is, that except as to them, all of the others whom you were concerned in locating, as far as you know, did go on the land?

A. Only what I have been told.

Q. And you don't know anything about whether the Watson women went on the land or not?

A. They may have been on.

Q. Now, you had some conversation with Mr. Cobban concerning the payment to the Watsons, did you?

A. Yes, sir.

Q. Where was that conversation had?

A. In the Cosmopolitan Hotel, in the office.

Q. When was that?

A. On the afternoon or evening of the day that they made final proof.

Q. Who was present at that time?

A. I couldn't say; there was quite a number in the room.

(Testimony of Chauncey L. Griswold.)

Q. Who was engaged in conversation with you?

A. Well, I couldn't say. My recollection is that Mr. Dinsmore was present; whether he overheard the conversation or said anything in the conversation I couldn't say.

Q. What was said?

A. I believe that I suggested to Mr. Cobban that he should pay those people, that they were poor and might want to buy something that evening before returning to Clearwater.

Q. Is that all?

A. He said very well, and handed me out three hundred dollars, directing me to go and pay those people one hundred dollars each.

Q. Did you furnish any money to the Watsons for expenses in coming down here to Helena to make their final proof?

A. I couldn't say as to that; I can't remember.

Q. You did say that on your direct examination, didn't you?

A. I couldn't say that either; that was three weeks ago and I can't remember; I said a good deal.

Q. You don't now have any recollection of having furnished them any money at all to come down here to make final proof?

A. I don't remember that I did or didn't.

Q. What do you know about the execution of any deeds from the Watsons to Mr. Cobban?

(Testimony of Chauncey L. Griswold.)

A. I know that they were executed.

Q. Were you present?

A. I was, yes, sir.

Q. Where was it done?

A. In Frank Ress' office in the city of Helena right over across here, I don't know the name of the block.

Q. What time of the day was it done?

A. In the afternoon.

Q. Was that before or after you had the conversation with Mr. Cobban up at the Cosmopolitan?

A. Prior to that time.

Q. The deeds were executed prior to that time?

A. Yes, sir.

Q. What time of the day was it that you had the conversation with Cobban at the Cosmopolitan concerning the payment of these amounts?

A. My recollection is that it was early candle-light—what might be termed early candle-light.

Q. What knowledge have you that the man, Sparks, concerning whom you have testified, was worried for the defendant, William A. Clark, except what Sparks may have told you?

A. Simply from what Mr. Cobban has told me and Mr. Dinsmore.

Q. Have you any knowledge of the matter other than what Mr. Cobban and Mr. Dinsmore and Mr. Sparks told you? A. I have not.

Q. When did Mr. Cobban tell you anything about for whom Sparks was working?

(Testimony of Chauncey L. Griswold.)

A. At various times and various places; I couldn't name the place nor time. Different times we were talking about the estimates that Sparks was making.

Q. When did you see Mr. Sparks at work?

A. Well, I don't remember that; I saw him every few days during the summer.

Q. Did you see him as early as June?

A. Well, I couldn't say the month.

Q. July?

A. (Hesitating.) I wouldn't say the month.

Q. August?

A. (Hesitating.) My recollection is that I did see him prior to August.

Q. Where did you see him prior to August?

A. On the Blackfoot River.

Q. Where, at any particular place?

A. At Clearwater.

Q. Well, give us some particular place that you saw Mr. Sparks. A. At my hotel at Clearwater.

Q. During the summer, some time prior to the month of August?

A. That is my recollection of it, yes, sir.

Q. And he was then engaged in estimating timber?

A. Yes, sir.

Q. Now, did you have any conversation with Mr. Sparks concerning this matter, as to whom he was working for, prior to the month of August?

A. I couldn't say that.

(Testimony of Chauncey L. Griswold.)

Q. Did you have any conversation with Mr. Cobban concerning this matter at any time prior to the month of August? A. I couldn't say.

Q. Could you say that you had any conversation with Mr. Sparks concerning this matter prior to the first day of November, 1899? A. Yes, sir.

Q. Could you say that you had any conversation with Mr. Cobban prior to that time?

A. Yes, sir.

Q. Now, Mr. Gilles and Mr. Cloutier were the men whom you first located, I believe?

A. They are located on the two first selections I made; they were the two first people.

Q. Now, I wish you would tell us just exactly what conversation you had with these two people prior to the time that they made their selections, concerning the location.

A. Mr. Cobban had been at my place on the 26th—

Q. No, I am not asking anything about Mr. Cobban; I asked you what conversation you had with Mr. Cloutier and Mr. Gilles at these times.

A. I say that I had entered into a contract with Mr. Cobban, whereby these parties could secure one hundred dollars over and above the expenses, and I told these two men this, and more, I presume, than that. I know that I told them that much. They were boarding there with me, and Gilles was working for me, cooking for me, and Cloutier was boarding with me.

(Testimony of Chauncey L. Griswold.)

Q. And you told them you had a contract with Mr. Cobban by which they could get one hundred dollars over and above all the expenses, if they took up a timber claim? A. Yes, sir.

Q. What else? A. That is the substance.

Q. That is all? A. Yes, sir, at that time.

Q. Now, if there were any further conversations with these two men concerning this matter, please state them.

A. Then Mr. Cloutier said he was willing to take it and would take it.

Q. What did Mr. Gilles say?

A. Mr. Gilles said he didn't think it was enough; that was to me, not in the presence of Cloutier, and I told him he could see Mr. Cobban, and perhaps he could do better, and that I would help him all I could.

Q. Was there any other conversation with these men?

A. Oh, yes; we were in the woods two or three days together.

Q. I mean touching the matter of taking up this claim? A. Yes, sir.

Q. What was it?

A. They wanted to know if they could get the money from me to go and make their filings and I told them they could, and I gave them some, I don't know how much; I couldn't say.

Q. I am speaking about the conversation.

(Testimony of Chauncey L. Griswold.)

A. This is the conversation.,

Q. Well, giving money is not a conversation, it is?

A. Well, I don't know; you could hardly hand a man twenty-five or thirty dollars without saying something to him about it.

Q. If there was any other conversation about it, I wish you would tell us.

A. Yes, sir. I told them that, immediately after making final proof or as soon as convenient, the land should be transferred according to my instructions.

Q. Did you say anything about that on your direct examination? A. I don't know that I did.

Q. You purported to tell just exactly the conversation that took place between you and Gilles and Cloutier on your direct examination, did you not?

A. I don't know that I did.

Q. You were asked so, were you not?

A. I couldn't say; that was three weeks ago.

Q. I wish you would state whether you were not asked this question on your direct examination: "I wish you would go ahead and state the facts and circumstances connected with these two men in connection with this entry?" A. Yes, sir.

Q. To which you answered: "Well, these two men, Mr. Giles and Mr. Cloutier, were the first two that I made selections for under this contract, and they knew that I had entered into this contract, for I told them so; and they wanted to know what there was in it for them, and I told Mr. Cloutier that he could get one hundred

(Testimony of Chauncey L. Griswold.)

dollars over and above his expenses, and I told Mr. Gilles to go and see Mr. Cobban himself"?

A. That is correct.

Q. You stated that, did you not? A. Yes ,sir.

Q. Did you state that there was any other conversation between you at that time?

A. I don't know that I did.

Q. When did you first think about this conversation that you have just now told us, to the effect that you told those men that immediately after final proof they would have to convey; why didn't you tell that on your direct examination?

A. I don't think I was asked to.

Q. Were you not asked to give the facts and circumstances connected with it? A. Yes, sir.

Q. And did you not go on and tell what purported to be the conversation between you and Gilles and Cloutier concerning this matter?

A. Prior to the time that I made the selections for them, which I done; I wasn't asked anything subsequent to that.

Q. Was this talk subsequent to the time that you made the selections? A. Yes, sir.

Q. Prior to the time that they made the selections, the talk that you had with them was in substance as you gave it upon your direct examination and which I just now read to you? A. Yes sir.

Q. When was this talk had with them to the effect

(Testimony of Chauncey L. Griswold.)

that they would have to convey immediately on making final proof?

A. It was at the time or about the time that I furnished them some money to defray the expenses of their trip from Clearwater to Helena to make this filing or application to purchase.

Q. Why didn't you tell about that on your direct examination? A. I don't know that I was asked.

Q. Were you not asked to tell the facts and circumstances connected with it?

A. With making the selection, yes, sir.

Q. With making the entry?

I don't know that I was.

Q. Were you not asked this question: "I wish you would go ahead and state the facts and circumstances connected with these two men in connection with this entry?

A. I don't remember about that; it may have been.

Q. You were asked that, weren't you?

A. Yes, sir.

Q. Did you consider that it was a fact or circumstance connected with the entry, that you told them that they would have to make this conveyance after making the final proof?

A. In connection with the entry, yes, sir, I did.

Q. And you don't now know any reason why you omitted to tell about that?

A. No, sir, I don't more than that I wasn't asked.

(Testimony of Chauncey L. Griswold.)

Q. You don't know any reason why you told a part of the conversation, namely, that they asked you how much there was in it for them, and that you told them that they could get one hundred dollars over and above their expenses, and left out the remainder of the conversation? A. I do. I understood—

Q. Tell us what the reason was.

A. I understood that this conversation was to be prior to the time that I had made this selection or about the time that I did make it, and nothing subsequent to that; that is the way that I understood the question.

Q. Did you understand the question: "State the facts and circumstances in connection with this entry?"?

A. I didn't understand it that way.

Q. That is why you didn't answer?

A. Yes, sir.

Q. You are quite sure, though, that you told them that?

A. Very sure, yes, sir or words to that effect; I wouldn't say that it was just in the same words, but it purported the same thing.

Q. And what did they say, that they would?

A. Mr. Cloutier said he was willing to.

Q. Willing to convey?

A. Yes, for one hundred dollars.

Q. Now, in the course of that affidavit that was made here, and which has been introduced in evidence, which you made before Mr. Zevely, I wish you would state whether you were not asked this question: "Did you

(Testimony of Chauncey L. Griswold.)

ever make any agreement with any person that Mr. Cobban would take that land at that price?" And you answered; "I never did"?

Mr. MAYNARD.—What paper is that? Let me see that paper please.

Mr. WALSH.—If the Court please I would like to see the affidavit which was introduced as a part of the evidence.

The EXAMINER.—You refer to the paper that was offered by counsel?

Mr. WALSH.—Yes, sir.

The EXAMINER.—He read that into the record without introducing it formally; he read portions of it, if that is the paper?

Mr. WALSH.—I ask counsel to let us have it for the purpose of cross-examination.

The EXAMINER.—Yes. That was some affidavits that you read from, Mr. Maynard; those papers that you have, you read portions of them.

Mr. MAYNARD.—I don't know what that paper is.

Mr. WALSH.—I wanted the affidavit that you read.

Mr. MAYNARD.—That was my private memorandum.

Mr. WALSH.—But you examined him concerning it, and I want to cross-examine him.

Mr. MAYNARD.—I don't think I did.

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—But it is in the record.

Mr. MAYNARD.—Then, why not use the record?

Mr. WALSH.—Because it is not transcribed. You read into the record an affidavit made by Mr. Griswold.

The EXAMINER.—No, that was the affidavit made by Mr. Bryan.

Mr. WALSH.—Mr. Griswold's also.

Mr. MAYNARD.—No, you are mistaken, Mr. Walsh, because I haven't examined Mr. Griswold at all except three weeks ago, and whatever took place then has been transcribed.

The EXAMINER.—You can settle that during recess.

Mr. MAYNARD.—Certainly. It was done weeks ago, and if it is there, it speaks for itself. I don't know anything about the paper Mr. Griswold now has in his hands; it is certainly incomplete.

The EXAMINER.—There is no objection that I know of. What is the question?

Mr. MAYNARD.—I object to the question because it assumes that I introduced an affidavit in evidence which I did not, and if there was anything offered in evidence it appears of record and is now before counsel; he has got the complete notes of the stenographer.

The EXAMINER.—What is your answer?

A. I did, yes, sir; I did answer the question that way.

(Testimony of Chauncey L. Griswold.)

Q. That is in the course of your affidavit that you made at the request of Mr. Zevely? A. Yes, sir.

Q. You were asked the question: "Did you ever make any agreement with any person that Mr. Cobban was to take that land at that price?" To which you answered: "I never did. The understanding was that Mr. Cobban was to take the land. This was Mr. Cobban's instructions to me"?

A. Yes, sir.

Q. That was true, was it? A. Yes, sir.

Q. And yet you now testify that you told Mr. Cloutier that if you advanced him that money, it would be necessary for him, as soon as he had made final proof, to convey that land to Mr. Cobban, and that Cloutier agreed that he would do it?

A. My recollection is that I answered the question; he should convey the land according to my instructions to him, or as I wanted him to. I don't know that Mr. Cobban's name was mentioned in the conversation between Cloutier and myself.

Q. Now, you have told us the conversation had with Mr. Cloutier and Mr. Gilles. I wish you would detail the conversation that you had with Mr. Jemison when you talked with him.

Mr. MAYNARD.—Which Mr. Jemison?

Q. Mr. Albert Jemison?

A. Well, I couldn't give it, the whole of it.

Q. Well, give us the substance of it.

(Testimony of Chauncey L. Griswold.)

A. I said that my recollection is that I told Mr. Jemison that I was under a contract with Mr. Cobban to secure lands.

Q. One moment. Didn't you tell us upon direct examination that Mr. Jemison called upon you about this matter? A. Yes, sir.

Q. Did he open up the conversation?

A. My recollection is that he did.

Q. Now, perhaps you had better tell what he said.

A. My recollection is that Mr. Jemison came to me at Clearwater and desired to be located on claims.

Mr. BICKFORD.—Claims?

A. Yes, sir; he wanted one for himself and others for some of his relatives or friends. I told him very good, that I was under a contract with Mr. Cobban to acquire lands there in that vicinity, and that he could go on and look them up and I would go and approve of them; that is the substance of the conversation at that time between Mr. Jemison and myself.

Q. That is not the way you told this on direct examination, is it? A. I couldn't say.

Q. You stated on cross-examination, did you not, that Mr. Jemison came and asked you how much there would be in it for a man to take up a timber claim; that that was the way the conversation opened up?

A. That is my recollection, yes, sir.

Q. And you told him, if he took up a timber claim,

(Testimony of Chauncey L. Griswold.)

that after final proof he could sell it for one hundred dollars over and above what it cost, and expenses?

A. According to my directions, yes, sir.

Q. Did you not say upon your direct examination that, in answer to his question, you told him in substance what I have just said?

A. I couldn't remember about that.

Q. Now, as I understand you, this Exhibit "C" introduced in evidence is not the original contract that claim you had with Mr. Cobban, but what you claim to be a copy of it?

The EXAMINER.—That was Exhibit "A," that copy of the contract; that was copied into the record.

Q. What have you to say, Mr. Griswold?

A. I don't know; you have not decided on the exhibit yet, have you?

Q. The judge says it is Exhibit "A."

A. Yes, sir.

Q. When was the first of these accounts that have been introduced in evidence of the account between you and Mr. Cobban presented by you to Mr. Cobban?

A. I don't understand you.

Q. I show you Exhibit "C," and ask you when that account was presented to Mr. Cobban, or was that presented by Mr. Cobban to you?

A. It was presented by Mr. Cobban to me, or Mr. Pound, I wouldn't say which gentleman handed it to me.

Q. When was that?

(Testimony of Chauncey L. Griswold.)

A. My recollection is it was somewhere the latter part of September, probably about the 20th.

Q. What year? A. 1899.

Q. And that account, as I understand you, as satisfactory to you?

A. Well, no, sir, not wholly.

Q. When was the other account introduced in evidence presented?

A. I don't know what you refer to.

The EXAMINER.—There is no other account; Exhibit "B" was a typewritten or partially typewritten copy of descriptions of lands; that was Exhibit "B."

Mr. WALSH.—There was another one that was given by Mr. Cobban which he said was not at all satisfactory to him, and not being satisfactory, he instituted suit.

The EXAMINER.—That is in his testimony, but not the account itself, as I recollect it.

Q. You had another account here besides this one, Exhibit "C," did you not?

A. No, sir, not of this description, not of the money transactions of Mr. Cobban and myself.

Q. Didn't you testify that after this account, Exhibit "C," as given to you; that later on, along in the month of January or February succeeding the fall of 1899, Mr. Cobban presented to you another account that was not satisfactory to you and not being satisfactory, that you commenced suit?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir, that is correct. I wouldn't say the date; I don't think I said the date.

Q. Didn't you have that statement of account with you at the time you testified?

A. No, sir, I did not.

Q. When was it that you instituted this suit against Mr. Cobban?

A. To the best of my recollection it was about a year ago now.

Q. And the settlement of that suit was made since that time? A. Yes, sir.

Q. Now, what have you been doing the last six months?

A. I have been living in Missoula with my wife.

Q. What business are you engaged in at the present time? A. I am in the grocery business.

Q. How long have you been in the grocery business in Missoula? A. About two or three months.

Q. What else have you been doing?

A. Not anything.

Q. You have been looking up witnesses and gathering evidence in this trial, haven't you?

A. I did, yes, sir.

Q. You have been sitting at the table during the whole progress of this trial with the counsel for the government, prompting them about the matters in this case have you not?

A. No, sir, not the entire time; I have been there different times.

(Testimony of Chauncey L. Griswold.)

Q. Didn't you have a regular seat over at Butte all the time that we were taking testimony there, right at the very same table with the counsel for the government, and didn't you, when the witnesses were on the stand, repeatedly prompt them concerning the matters of inquiry? A. I believe that I did, yes, sir.

Q. And didn't you occupy that place continuously during the hearing? A. I think so, yes, sir.

Whereupon a recess was taken until 2 P. M.

Wednesday, December 18th, 1901, two o'clock P. M.

Hearing resumed pursuant to adjournment.

Cross-examination of C. L. Griswold resumed.

(By Mr. WALSH.)

Q. What work did you do in interviewing witnesses and looking up evidence in this case?

A. I was up the Blackfoot on two different occasions.

Q. When were those?

A. It was—the first trip was immediately prior to my giving testimony before Mr. Zevely. The other one was during the pendency of this suit after the suit was commenced.

Q. How long ago?

A. I think about two weeks.

Q. What is it? A. About two weeks.

Q. About two weeks ago? A. Yes, sir.

Q. Whom did you go to see about two weeks ago?

(Testimony of Chauncey L. Griswold.)

A. Went to see Mr. Murtaugh and Mr. Sperry, and Mr. Wells and Mr. Muchmore.

Q. What did you want to see them about?

A. Wanted to see them in regards to this case.

Q. What did you want to see them about?

A. For the purpose of having them subpoenaed here before the United States Court—before this Court.

Q. Yes, but you could have gone before the clerk's office and got a subpoena for them?

A. I presume so.

Q. What did you want to see them for?

A. Well, I wanted to see them to see if they were willing to testify to the truth about the facts in this case.

Q. Well, a subpoena would bring them, if they were willing? A. Yes, sir.

Q. Or whether they were willing or not.

A. Yes, sir.

Q. So that wasn't why you went to see them, was it?

A. No other reason.

Q. The other trip you say was made before giving the testimony which you gave before Mr. Zevely?

A. Yes, sir.

Q. How many days were you on this last trip?

A. Was away three days from Missoula.

Q. And how did you go?

A. With a team and wagon.

Q. From Missoula? A. Yes, sir.

Q. At whose request did you go?

(Testimony of Chauncey L. Griswold.)

A. At the request of Mr. Woolman, U. S. Marshal and Mr. Maynard.

Q. Who paid your expenses?

A. I paid my own expenses.

Q. How did you go the first time that you made the trip, before you gave your testimony before Mr. Zevely?

A. With a team, a two horse team and wagon, or rather a buggy.

Q. How long were you on that trip?

A. My recollection is that it was two days.

Q. How much did you have to pay a day for your team?

A. I believe the first trip I paid five dollars a day.

Q. And the second trip.

A. Four dollars.

Q. And the second trip?

A. Four dollars a day.

Q. Who paid your expenses on the first trip?

A. I paid my own personal expenses, and Mr. Zevely paid for the team.

Q. Well, is that all that you did in the way of hunting up witnesses or evidence in this matter?

A. Yes, sir, I don't call to mind anything more that I done.

Q. You have interviewed the witnesses repeatedly since you have been here, have you not?

A. No, sir. We room in the same hotel, and they are in my room a great deal of the time, and they hear

(Testimony of Chauncey L. Griswold.)

more or less of the conversation that is going on between the parties—between the witnesses.

Q. You have talked these matters over with the witnesses quite a number of times, haven't you?

A. Well, yes, in connection with the case I would say that I have.

Q. You had a talk about this with Mr. Bryan and Mr. Jemison at the hotel, did you not, immediately after Mr. Bryan got through with his testimony yesterday?

A. I presume I did; I wouldn't say that I did or did not.

Q. Referring to the testimony that Mr. Bryan gave, I wish you would state whether on that occasion you didn't say that someone would get themselves in the penitentiary or into the Deer Lodge prison, on account of the testimony given in this case if they were not careful, or words to that effect.

A. I don't remember that I did. It has been talked over as a josh that I was booked for there, and undoubtedly there are people that want to send me there, and that there might be somebody go.

Q. What was it that you said about that?

A. I couldn't recall to mind now.

Q. Well, now, what did you get out of this?

A. I got a big dollar and a half a day from the Government of the United States.

Q. Is that all?

A. That is all I know of at the present time.

(Testimony of Chauncey L. Griswold.)

Q. Well, then you had no talk with anybody about getting anything else? A. I had.

Q. With whom have you had this talk?

A. With Mr. Maynard and Mr. Zevely.

Q. What was it?

A. In regards to an appointment from the United States Government.

Q. What was that?

A. To look up these fraudulent entries and the cutting of timber that belonged to the public domain.

Q. Now, what was this conversation about, to what effect was it?

A. I asked them if they would assist me in securing it.

Q. What did they say to that?

A. They said they would do all that they could for me.

Q. Well, you have told people repeatedly, haven't you, that you were going to get an appointment from the Government of the United States, and that you had been promised that if you would testify in this case?

A. No, sir.

Q. You have told people, have you not, that you wouldn't testify in this case unless you were promised an appointment? A. No, sir.

Q. You may state whether you did not state to Mr. Peers, about November first, last, at your store in Missoula, that you hadn't yet given any damaging testimony in connection with the present case, or the case

(Testimony of Chauncey L. Griswold.)

pending on account of timber lands sold to Senator Clark, but that you had a lot of testimony up your sleeve and that you had been promised a government position if you would testify in this case, but unless you were given what you were asking for, you wouldn't testify at all? A. I did not.

Q. Did you say anything in substance to that effect?

A. I did not for the simple reason that I know it is beyond the power of Mr. Maynard and Mr. Zevely to promise me an appointment.

Q. What was the first thing done by you towards bringing this matter to the attention of the Interior Department?

A. The first recollection I have was of meeting Mr Zevely in Missoula, when he came there from the Indian Territory.

Q. You knew he was coming, did you?

A. Yes, sir.

Q. How did you know it?

A. Through Mr. Draffon.

Q. Who is Mr. Draffon?

A. He is an attorney in Missoula, a partner of A. L. Duncan.

Q. How did Mr. Draffon know about it?

A. I couldn't tell you, there was some correspondence between him and Mr. Zevely. He claimed that they were schoolmates.

Q. What relation did Mr. Draffon sustain to you?

A. He was my attorney.

(Testimony of Chauncey L. Griswold.)

Q. In what matters?

A. In the matter of the case I had against Mr. Cobban, in the civil action.

Q. Brought by you against Mr. Cobban to recover something under this contract that you claimed to have eixsted between you and Mr. Cobban?

A. Yes, sir.

Q. You were claiming that Mr. Cobban was owing you thirty-four hundred dollars under that contract, weren't you? A. Yes, sir.

Q. And you brought suit under that contract did you? A. Yes, sir.

Q. Mr. Draffon was your attorney in that suit?

A. Mr. Draffon and Mr. Duncan, yes, sir.

Q. And Mr. Draffon is an old schoolmate of Mr. Zevely's? A. Yes, sir, that is my understanding.

Q. And while that suit was pending, Mr. Draffon told you that Mr. Zevely was coming out here to investigate this matter? A. Yes, sir.

Q. You and Mr. Draffon talked this whole matter over, didn't you? A. Yes, sir.

Q. You talked with him and decided the course of procedure to get your pay from Mr. Cobban?

A. I had nothing to do with it; he was acting as my attorney, and I was acting under his directions.

Q. Well, wasn't that course the subject of conversation between you and your attorney?

A. I told him he should decide what course to pursue.

Q. He decided that course, did he?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir.

Q. That is to say, he suggested as a means by which you would be able to get this money that you claimed from Mr. Cobban, that he would report this matter to Mr. Zevely, who was an agent of the Interior Department? A. No, sir.

Q. Well, what was it?

A. I had a meritorous case against Mr. Cobban, and Mr. Zevely's coming to Missoula had nothing to do with it in any way.

Q. Mr. Griswold, did you understand the question I asked you?

A. Well, I don't particularly. I don't know what you are driving at.

Q. I asked you, sir, if Mr. Draffon didn't suggest to you, as a means whereby you could compel Mr. Cobban to give you this money, or as a means by which to get this money from Mr. Cobban, that he would report this matter to Mr. Zevely, who was an agent of the Interior Department? A. I don't recollect that he did.

Q. For what reason was it talked over between you and Mr. Draffon that this matter should be reported to Mr. Zevely?

A. Under the terms of my contract and the statement that Mr. Cobban had rendered me, Mr. Draffon inferred that there had been fraudulent transactions that should be investigated by the government, and he done this on his own responsibility.

Q. Talked it over with you, didn't he?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir.

Q. And you advised and consented that this be reported? A. I did not.

Q. Didn't you say that you told Mr. Draffon that he could do as he saw fit about it? A. Yes, sir.

Q. Now, what do you mean to tell us, Mr. Griswold? Do you mean to say that this was not reported to Mr. Zevely with any intention to aid you in getting this money from Mr. Cobban?

A. I do, not on my part.

Q. Well, on the part of whom was it?

A. I couldn't say.

Q. What was your purpose in reporting this to the Interior Department.

A. I never did report it to the Interior Department

Q. What was your purpose in permitting your attorney to report it?

A. I didn't permit him to report it.

Q. Didn't you say that he had reported it?

A. Why, he did report it to Mr. Zevely, that was his idea about it.

Q. What was your position in permitting him to report the fact that you had committed perjury in this case?

A. I hadn't permitted him to do it. He could do that if he saw fit to do so.

Q. He was your attorney, was he? A. Yes, sir.

Q. You know he wasn't at liberty to disclose anything of that kind unless you permitted him to?

(Testimony of Chauncey L. Griswold.)

A. I wasn't familiar with anything of the kind.

Q. You think you could go and get an attorney and talk this matter over and he could do as he pleased?

A. I didn't know there was anything binding about it.

Q. You don't know that? A. No, sir.

Q. When was it Mr. Draffon did report the matter to Mr. Zevely? A. As I understand it—

Q. It was after you had consulted him with reference to recovering this money from Mr. Cobban?

A. Yes, sir.

Q. Now, Mr. Griswold, haven't you told any number of people, referring to that contract, that you were going to use that to put Mr. Cobban into State's prison unless he paid you the amount you were claiming against him? A. No, sir.

Q. Didn't you say that in substance?

A. No, sir.

Q. Or anything to that effect?

A. I wouldn't say.

Q. I will ask you whether at or about the time you commenced this suit in Missoula, you didn't say in effect to D. V. Bean, on the street in Missoula, "I will send that son-of-a-bitch, Cobban, to the penitentiary, if he doesn't pay me the thirty-five hundred dollars that he owes me," or words to that effect?

A. Not to my recollection.

Q. I will ask you if you didn't say the same thing

(Testimony of Chauncey L. Griswold.)

in substance on the street in Missoula, at or about the same time to Mr. Sparks?

A. Not to my recollection.

Q. Did you say that at any time to Mr. Sparks?

A. I don't know that I have.

Q. Did you say it at any place to Mr. Sparks?

A. I couldn't say. In the first place, I never demanded thirty-five hundred dollars from Mr. Cobban, or said to any person that he owed me that amount.

Q. You understand that I don't stick on any amount at all. If there is any amount that bothers you, cut the amount out, and we will make it twenty-five hundred dollars, or any other amount you may choose. And now you may answer the question. Did you say it or did you not? A. Not to my recollection.

Q. I will ask you if you didn't say that in effect to John B. Reeve, at or about the same time and place?

A. I couldn't say. I don't think that I mentioned the contract in that conversation.

Q. Now, I haven't mentioned the contract. Now, Mr. Griswold, the question is, did you not say in substance at or about the time you commenced this suit, or during its pendency, on the streets in Missoula, "I will send that son-of-a-bitch, Cobban, to the penitentiary, if he doesn't pay me that thirty-five hundred dollars he owes me," or any other sum that he owed you?

A. I am sure, sir, that I never said it, because I never desired to call anybody, honestly and candidly such a name as that, and I don't think I ever mentioned

(Testimony of Chauncey L. Griswold.)

anything of the kind. I know that Mr. Cobban isn't anything of the kind.

Q. Well, did you say that? A. No, sir.

Q. Well, leave the "son-of-a-bitch" out, and did you say that? A. No, sir.

Q. Did you say anything in substance to that effect?

A. I may have said there was a prospect that Mr. Cobban would go to the penitentiary.

Q. I will ask you if you didn't say that, or in substance that, at or about the same time, and repeatedly since?

A. I may have said there was a prospect or a probability of his going to the penitentiary.

By Mr. MAYNARD.—He said there was a possibility of his going to the penitentiary.

Q. The question is, whether you did not say in substance to Mr. John B. Reeve, repeatedly, while the action was pending against Cobban, and before it had been settled, or immediately before it was commenced in Missoula, that if Mr. Cobban didn't pay what you claimed he owed you, you would send him to the penitentiary?

By Mr. MAYNARD.—We object to that for the reason that the same question has beeen put to the witness, and he has two or three times answered it and stated that there was a possibility of Mr. Cobban going to the State prison for what he had done under this contract.

A. I don't recollect of ever saying that I would send him to the penitentiary. I am positive I did not. I

(Testimony of Chauncey L. Griswold.)

wouldn't make any such assertions; couldn't do it, and would not permit myself to do so.

Q. Did you say he would go to the pentitentiary if he didn't pay you the money he owed you?

A. I did not.

Q. I am asking you if you did not say the same thing in substance to Mr. Bryan?

A. I may have said something to that effect.

Q. You may have said something to that effect?

A. I wouldn't say that I did or did not.

Q. Didn't you say the same thing in substance to Mr. Charles E. Johnson?

A. I presume very likely I did; Mr. Johnson and I talked the matter over.

Q. That is, you told Mr. Johnson, that if Mr. Cobban didn't pay you what he owed you, he would go to the penitentiary? A. No, sir.

Q. That was the question I asked you?

A. I don't say so.

Q. Did you say so in substance to Nels Stairs, at or about the same time and place?

A. Oh, I may have said something of that kind, that there was a prospect of his going to the penitentiary if these cases went on.

Q. I didn't ask you anything about that. I asked you if you didn't say he would go to the penitentiary if he didn't pay you what he owed you?

A. I don't think I did.

(Testimony of Chauncey L. Griswold.)

Q. Now, we were talking a minute ago, about conversations had with different people at or about the hotel, concerning this matter. I would like to ask you whether you did not on the evening of December 16th, at the supper table, at the hotel in the city of Helena where you are staying, you didn't say in substance that you had sworn falsely many times and that you would do so again whenever it was necessary in a case?

A. I did not.

Q. I will ask you whether on the same occasion, on the evening of December the 16th, at the hotel in the city of Helena, you did not in the presence of Albert Jemison, John Murtaugh, Thomas B. Bryan and Mr. Muchmore, say you had committed perjury in this case a number of times, and that you would do it again if it was necessary to win?

A. I don't deny saying that I had committed perjury several times, under the contract with Mr. Cobban, but now I am going to square myself by telling the truth.

Q. Answer the question I put to you. You haven't yet answered whether you did or did not say what I asked you.

A. I have no recollection of saying that more than the first part of it.

Q. I will ask you whether you didn't state to Matthew P. Dunham in Missoula, a short time ago, about the time that this hearing commenced, that you were working for a Government position, and that Mr.

(Testimony of Chauncey L. Griswold.)

Zevely had promised you one if you stayed by him in this case? A. I did not.

Q. Now, you say that you didn't have anything at all to do with bringing Mr. Zevely here to investigate this matter? A. Directly, no, sir.

Q. Well, now, that seems to be a queer qualification to make, Mr. Griswold?

A. Well, indirectly, I did.

Q. Well, how, indirectly?

A. Bringing my suit, my civil suit against Mr. Cobban to recover this money that was due me. I had to produce these papers to my attorneys and they took them and—from those papers—and got Mr. Zevely here to make this examination. Therefore, I was indirectly instrumental in getting Mr. Zevely here.

Q. That is the only connection you had with it?

A. Yes, sir.

Q. Mr. Zevely has written you repeatedly about it, hasn't he?

A. He has since this case was started here, since this inquiry started.

Q. And since this case was started?

A. Yes, sir.

Q. And not before?

A. Well, subsequent to the time that we made our affidavits before him. After that he has written to me several letters.

Q. About what? A. About this case.

(Testimony of Chauncey L. Griswold.)

Q. Where are those letters?

A. I haven't got them.

Q. Where are they?

A. I couldn't say; they are destroyed, I presume. They are something that don't amount to anything.

Q. You didn't keep those letters? A. No, sir.

Q. Why, you told people over and over again, didn't you, that you were going to bring an agent of the Interior Department here to investigate this matter if Cobban didn't pay you what he owed you?

A. No, sir.

Q. And didn't you repeatedly tell people that you had done that? A. No, sir.

Q. Didn't tell people that you had brought him here because Cobban hadn't paid you what he owed you?

A. No, sir, it would be an utter impossibility for me to bring a special agent here to investigate any matter.

Q. You may tell whether, on the 27th day of April, in front of the Daly building, in the city of Missoula, you didn't say in substance to John B. Reeve, that you had been getting a man to come here to investigate the entries under consideration in this case; that you hadn't just committed yourself, but that, if Cobban would settle with you you could do him a great deal of good, and if he didn't settle with you you would cause him to lose a great deal, and whether you didn't ask Mr. Reeve to go to Mr. Cobban and ask Mr. Cobban to square up with you, and thus put a stop to the investigation that you

(Testimony of Chauncey L. Griswold.)

were then carrying on, or that you were going to carry on? A. No, sir.

Q. Didn't you as a matter of fact go to a great many people, or a great number of people, and say that you wanted them to go to Cobban and tell Cobban that he had better settle up with you or you would call on an agent of the Interior Department to investigate these entries? A. No.

Q. I should like to ask you whether or not, on or about April the 27th, 1901, you didn't show this contract that you claimed to have had with Cobban, to one D. V. Bean? A. I presume that I did.

Q. And whether you did not in that same connection, tell Mr. Bean that you were going to have Mr. Zevely come here to investigate those matters?

A. I don't remember that I told him anything of the kind.

Q. I would like to ask you whether you did not in that same connection say to Mr. Bean, "I am going to make that son-of-a-bitch (referring to Cobban) pay me thirty-five hundred dollars more (pointing to the contract and referring to it), and I will get Draffen to send for Zevely, who is a friend of the Secretary of the Interior, and prove all these entries fraudulent and have them canceled?"

A. I have no recollection of having such conversation.

Q. Well, will you swear that you did not?

A. I will swear that I have no recollection of it.

(Testimony of Chauncey L. Griswold.)

Q. Nor anything in substance to that effect?

A. Only to the effect that I would use that contract in making Mr. Cobban pay me what he owed me. I never claimed thirty-five hundred dollars from Mr. Cobban.

Q. Now, to whom did you tell anything about the facts touching the illegality of these entries, as you claimed them to exist, prior to the time that you brought your suit against Cobban?

A. I don't think that I ever told any of them.

Q. That is, until you brought your suit, or until you contemplated bringing your suit you never told anybody anything about the facts touching the illegality of these entries?

A. Immediately prior to it I did. I had a talk with Mr. Joseph Dixon concerning the matter.

Q. With a view to bringing the suit?

A. Yes, sir.

Q. And then you told him something about these facts? A. Yes, sir.

Q. But with that exception you never said anything to anybody about it?

A. Prior to that time, not to the best of my recollection.

Q. Now, you told us this morning about some understanding that you had with Marion B. Watson, about taking up his claim.

A. Together with his wife and mother, yes, sir; and father.

(Testimony of Chauncey L. Griswold.)

Q. Where was that conversation?

A. I talked with Mr. Watson in several places. I was in the woods with him, and he was at my place. We live about four miles apart.

Q. And he was one of the parties that you hired to work for you under this contract, you say?

A. He done some work for me, yes, sir.

Q. Now, you told Mr. Watson the terms and conditions upon which he could dispose of his claim, if he wanted to do so, didn't you? A. Yes, sir.

Q. You don't know anything about the claim of Harriet Watson or the other Mrs. Watson, except the conversation which you had with Marion B. Watson?

A. That was all.

Q. Now, I wish you would state whether the substance of the conversation which you had with Mr. Watson at the time he talked with you about taking up the claim, or at the time you first told him of the terms upon which he could dispose of the claim, wasn't as follows: That any person who wanted to take up a claim could have the lines shown to him, and that such person would be paid by R. M. Cobban the sum of one hundred dollars for such services, including the making out of all the necessary papers for filing, and that in addition thereto, Cobban would loan to any person taking up a claim, sufficient money to pay the necessary expenses to and from the land office, and that the amount of money to be paid would be loaned with the under-

(Testimony of Chauncey L. Griswold.)

standing that when the claim was proved upon that the said amount so advanced, together with the sum of one hundred dollars, for locating, was to be secured to Cobban by a mortgage, to be paid for within a reasonable length of time.

A. No, sir; I didn't say anything of the kind.

Q. Did you say anything in substance to that effect?

A. No, sir.

Q. Did you not, as a matter of fact, instruct Mr. Watson, when he went to work for you, that that was—and those were the terms and conditions upon which parties would be located upon lands?

A. No, sir.

Q. Isn't it a fact that you never had any contract or agreement with Mr. Watson, by which you undertook, on behalf of Mr. Cobban, that Mr. Cobban would buy these lands at any price? A. No, sir.

Q. That isn't the fact— A. No, sir.

Q. Isn't it a fact that you never made any such contract with Mr. Watson on behalf of Mr. Cobban?

A. I did make a contract to that effect with Mr. Watson, whereby he was to transfer the land according to my direction.

Q. Did you tell us this morning, that in the course of the affidavit which you made before Mr. Zeveky, you were asked this question: "Did you ever make any agreement with any person that Mr. Cobban would take that land at that price?" and did you not answer thereto, "I never did. The understanding was that Mr.

(Testimony of Chauncey L. Griswold.)

Cobban was to take the land." This was Mr. Cobban's instructions to you? You told us this morning that you so testified, didn't you?

A. I believe I did, yes, sir.

Q. And yet you say that you did not make an agreement with Mr. Watson, that Mr. Cobban would take his land at a price named? A. I didn't say so.

Q. Did you make such an agreement as that with Mr. Watson? A. No, sir.

Q. What is there about the recital I give that is not correct?

A. Mr. Cobban's name wasn't mentioned, because at that time I didn't know whether the land was transferred from Watson to Cobban, or to whom he might name. The contract could be exhibited. You will find in that that the land should be transferred to Mr. Cobban, or whoever he might elect, or words to that effect.

Q. And that is the distinction, is it?

A. Yes, sir.

Q. What promises did you make to those people that you interviewed up the Blackfoot?

A. These witnesses?

Q. Yes, that you spoke about.

A. I said that I was vested with authority from the United States representatives to grant them immunity from the very time that they would go on the stand and tell the truth and nothing but the truth in regard to their transactions in this land matter.

Q. To whom did you make these statements?

(Testimony of Chauncey L. Griswold.)

A. I made them to each and every one of them.

Q. For instance, what persons?

A. Why, Mr. Sperry, Mr. Muchmore and Mr. Wells.

Q. Anybody else?

A. Not that I recollect of.

Q. You know George W. Sparks, do you?

A. Yes, sir.

Q. You had a conversation with him in Missoula, along about the 18th of November, did you not?

A. I presume that I did. I saw him every few days there.

Q. Along about your store?

A. I think he went with me from the Northern Pacific depot to my store, along about that time; I wouldn't say for sure the date.

Q. I wish you would state whether or not on that occasion you didn't say to Mr. Sparks that Mr. Zevely had promised to pay you some money out of his own pocket if you would testify in the Clark case, and in the criminal cases at Helena, and that there was no appropriation there which he could get funds from, and for this reason he would be compelled to pay you personally. That you stated to Mr. Zevely that you wouldn't take money in this case; that the Government had furnished you a position, and that the Government must take care of you, or you would not testify. That you had it all in your own hands and wouldn't give up anything until they came to your price. And whether

(Testimony of Chauncey L. Griswold.)

Mr. Sparks did not say to you then, "What do you mean, Griswold, by taking such a stand. You know it would be very easy to get ten or more men to swear that you would not be believed under oath." To which you said, "I know that, but they will find out before I get through with them."

A. I don't think I ever said anything of the kind to Mr. Sparks.

Q. Or anything in substance to that effect?

A. Some of it I said to Mr. Sparks.

Q. Well, what did you say?

A. I did not say that, what I said to Mr. Zevely was, that I wouldn't take the money from his private funds in payment for my services here as a witness; that I didn't think it would be just. I will acknowledge that I am—I am very positive that I didn't say that—they had to give me a position, or that failing to give me the position, that I wouldn't testify, because it would have been very much out of order if I had done anything of the kind, because they could force me to testify.

Q. You remember telling him that you wouldn't take any money from Mr. Zevely, that it wasn't the right thing to do to take any money out of his private funds?

A. I think prior to this time Mr. Maynard and Mr. Zevely told me, promised me that they would pay me. They said that if the money that I got for my fees, a dollar and a half a day, was not sufficient to pay my expenses, that they would make it up to me; that they

(Testimony of Chauncey L. Griswold.)

knew I had a wife at home, and that they had both seen the situation I was in with my wife and that I need not worry. They treated us very nicely.

Q. Well, is there any other portion of this that you didn't say?

A. I don't remember of saying anything more than that.

Q. The rest of it you say you didn't say?

A. Not to my recollection.

By Mr. WALSH.—That is all.

Redirect Examination.

(By Mr. MAYNARD.)

Q. Mr. Griswold, you said that after—in the spring of 1899, after your suit had been commenced and had progressed so far that testimony was being taken in Missoula before a referee to determine the question as to whether or not you had a legal claim against Mr. Cobban.

By Mr. WALSH.—We object to that for the reason it is not proper redirect examination.

Q. Is that so, Mr. Griswold?

By Mr. MAYNARD.—Well, I will withdraw that question.

Q. You say that you commenced your suit against Mr. Cobban about a year ago now?

A. That is my recollection, yes sir.

Q. And you were obliged to sue him in order to get your pay under this contract?

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We object to the question for the reason that it is leading.

A. Yes, sir.

By Mr. WALSH.—We further object to that question, upon the ground it is immaterial and irrelevant, and refers to matters that have all transpired long after the conveyance of these lands from Mr. Cobban to the defendant, Clark, and therefore it is immaterial and irrelevant as against the defendant.

Q. Now, your conversations prior to your bringing this suit against Mr. Cobban. You acted upon what you regarded as your rights. Had you had conversations with him in regard to the subject matter?

By Mr. WALSH.—We object to that question, for the reason that it is leading, and upon the ground that it is immaterial and irrelevant, and refers to matters that have all transpired long after the conveyance of these lands from Mr. Cobban to the defendant, Clark, and therefore it is immaterial and irrelevant as against the defendant.

A. Of the settling of my claim?

Q. Yes, sir. A. Yes, sir.

Q. Did he tell you that knowing the lay of the land, of the character of the work that you had done and that he had hired you to do, that you dare not sue him?

By Mr. WALSH.—We object to that as leading.

A. No, sir.

Q. Or words to that effect?

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—Objected to as being leading.

A. No, sir, he didn't tell me anything of the kind.

Q. But the testimony was taken before the referee in June, in Missoula, was it not?

A. That is my recollection yes, sir.

Q. Before the government had commenced its investigation of these alleged land frauds?

A. Yes, sir.

Q. And while the suit was pending, and while the testimony was being taken before the referee a settlement was made?

By Mr. WALSH.—That is objected to as being leading, and as having already been gone through on the direct examination.

A. Yes, sir.

Q. How much money has Mr. Cobban paid you in the suit that you brought against him, in which you were plaintiff, and he was the defendant?

By Mr. BICKFORD.—We object to that as not being redirect examination, and because it has already been gone over on the direct examination.

A. Fifteen hundred dollars.

Q. Paid you fifteen hundred dollars?

By Mr. BICKFORD.—We object to that as being leading, and as having been gone over in the direct examination.

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. And on the payment of that money there were certain other conditions required of you?

By Mr. WALSH.—We object to the question for the reason that it is leading, and as calling for matters which transpired long after the conveyance of the property from Mr. Cobban to Clark, and therefore the defendant, Clark, cannot be prejudiced by any act or declaration of Cobban, subsequent to the transfer to the defendant, Clark.

A. There was.

Q. State as to whether or not one of these conditions that the defendant imposed was the making of this affidavit that my brother Walsh has introduced in evidence here, in his cross-examination of you?

By Mr. WALSH.—We object to that for the reason that it is leading, and further upon the ground that it is irrelevant and immaterial, and transpiring subsequent to the conveyance made to the defendant, Clark, and as having been directly asked and answered on direct examination.

A. It was.

Q. And you may state now in your own way just exactly the circumstances connected with the making of this affidavit, which has been offered in evidence on your cross-examination.

A. In the office of attorneys, Marshal and Stiff, of Missoula and they demanded the contract that I had in my possession with Mr. Cobban, and with a direct

(Testimony of Chauncey L. Griswold.)

statement in the account that Mr. Cobban had given me prior to the time of my bringing suit, a copy of the testimony that I had given Mr. Zevely, the court records, or something of that kind, in connection with my suit against Mr. Cobban, and that I should sign this affidavit.

Q. Five conditions?

A. I believe so, yes, sir.

Q. Were those five conditions complied with?

A. They were.

Q. And as I understand you, upon the compliance with their demand and of the five conditions, you received the fifteen hundred dollars?

By Mr. WALSH.—We object to that as leading; and upon the further ground that it is irrelevant and immaterial.

A. Yes, sir.

Q. Now, then, this is the fact, is it not, that if Mr. Cobban had paid you as he had agreed under his contract, there would have been no trouble, as far as you are concerned?

By Mr. WALSH.—We object to that as interposing into this case an inquiry as to the correctness of accounts between these gentlemen, and is an attempt to lug the whole suit between Mr. Griswold and Mr. Cobban into this case, and for that reason it is immaterial, irrelevant and leading.

Q. Is that, or is that not the conditions?

(Testimony of Chauncey L. Griswold.)

A. No, there would have been no trouble; there was one other condition that I didn't state in there. There were six conditions. The sixth condition was that I should stop this suit that was then pending, or withdraw the testimony that was in the hands of Mr. Zevely, and stop all further investigation. That was the sixth condition.

Q. The investigation that had been commenced then by the Government?

A. Yes, I told them I couldn't comply with that; that had gotten beyond my recall.

Q. And whatever has come up here has come up by reason of the fact of the necessity that you had been compelled to bring this suit, and to recover what you regarded as your just desserts.

By Mr. WALSH.—We object to that as leading, and upon the further ground that it is irrelevant and immaterial to the issues in this case.

Q. Is that so, Mr. Griswold?

By Mr. WALSH.—We object to that as leading, and upon the further ground that it is irrelevant and immaterial.

A. Yes, sir.

Q. Now, from the beginning up to the commencement of this suit, has any representative of the Government at any time or any place ever said anything to you in any way except that they simply wanted you, if you

(Testimony of Chauncey L. Griswold.)

were called upon the witness-stand, to tell the truth, the whole truth and nothing but the truth?

By Mr. WALSH.—We object to that as leading.

A. That is all they have ever asked.

Q. Now, just tell me, Mr. Griswold, in order that I may have it in my own mind, how many persons you yourself hired to assist you under this Cobban contract.

By Mr. WALSH.—We object to that for the reason that it has already been told several times.

Q. Just name them.

A. There was Albert Jemison, John Gilles, Marion B. Watson, E. R. Kilbourne, and A. J. Griswold assisted me a few days. He done some work for me for just a few days.

Q. State as to whether or not you communicated to each and every one of these assistants just the specific agreement and arrangement that you had with Mr. Cobban?

By Mr. WALSH.—That is objected to as being leading, and as not being proper redirect examination, as being properly a part of the plaintiff's case in chief.

A. I did.

Q. You did? A. Yes, sir.

Q. You have stated this morning, in answer to a question of my Brother Walsh, just exactly the specific agreement and arrangement that you had with Mr. Giles and Mr. Cloutier, the two men that you first located? A. I have, yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. Have you your answer to his question in mind, and if so, as to what you testified in response to his question? A. Yes, sir.

Q. You may state as to whether or not in each and every case that you yourself have located, and the names of the entrymen and entrywomen that you have previously given in your testimony, as to whether or not the same arrangement was made with each of them as that which was made with Mr. Cloutier and Mr. Jemison?

By Mr. WALSH.—That is objected to as leading, and as not redirect examination, and as a matter that was gone into fully in the direct examination.

A. Those are the instructions from me to my employees. I presume that they were fully lived up to.

By Mr. WALSH.—We move to strike the answer of the witness, as to what he presumed, as not being responsive to the question, and upon the further ground that it is irrelevant and immaterial.

Q. Mr. Griswold, you didn't understand that question. The question that I put to you was the direct reference you yourself had to do with locating these parties? A. Yes, sir.

Q. As to that, as to whether or not you are able to give positive testimony as to those entrymen and entrywomen.

By Mr. WALSH.—We object to the question for the reason it is irrelevant and immaterial and not proper

(Testimony of Chauncey L. Griswold.)

redirect examination, it having been fully gone into in the examination in chief.

A. Yes, sir.

Q. You are, sir? A. Yes, sir.

Q. And do I understand you to say that the same arrangement was made with them as was made with Mr. Cloutier and Mr. Jemison?

By Mr. WALSH.—We object to the question for the reason it is irrelevant and immaterial and not proper redirect examination, it having been fully gone into in the examination in chief.

A. Yes, sir.

Q. And so far as the other entrymen that were located by your assistants were concerned, the same instructions were given?

By Mr. WALSH.—We object to the question for the reason it is irrelevant and immaterial and not proper redirect examination, it having been fully gone into in the examination in chief.

A. Yes, sir.

Q. Have you ever had any reason, or have you now any reason to feel or to know that your instructions were not carried out?

By Mr. WALSH.—We object to the question for the reason it is irrelevant and immaterial and not proper redirect examination, it having been fully gone into in the examination in chief.

(Testimony of Chauncey L. Griswold.)

A. Subsequent events go to show that my instructions were fully carried out.

By Mr. BICKFORD.—We move to strike out the answer of the witness for the reason that it appears to be a deduction of the witness from the facts, and not a fact concerning which he has testified.

Q. As I understand you that in many of these cases where the locations were made by your assistants under this contract, that you have had conversations with entrymen and entrywomen on the side.

By Mr. WALSH.—That is objected to as being leading, and as being irrelevant and immaterial and not proper redirect examination.

A. I have, yes, sir.

Q. State as to whether or not in any manner in any of these conversations that you ever had with these people, they ever said anything to you in which they told you that the instructions which you had given to your agent were not carried out?

By Mr. WALSH.—We object to the question, for the reason that it is leading, and upon the further ground that it is irrelevant and immaterial to any of the issues in this case, and is not proper redirect examination, and as calling for hearsay testimony.

A. They never have in any one particular.

Q. Did you ever understand, Mr. Griswold, from the beginning of your work under this contract with Mr. Cobban, until the end, that any one of these entrymen

(Testimony of Chauncey L. Griswold.)

or entrywomen were to have anything to do whatsoever with this land that they located, except out of it they were to receive a hundred dollars in money, and their expenses in making the location?

By Mr. WALSH.—We object to that as being leading and not proper redirect examination, and as being irrelevant and immaterial and incompetent, and calling for a conclusion, based upon evidence about which the witness has been asked to testify.

A. I never did in any one particular instance.

Q. And that for and in consideration of this one hundred dollars, they understood that from the beginning they would immediately after they had received receiver's final duplicate receipt, transfer their interest in the land to Mr. Cobban?

By Mr. WALSH.—We object to the question for the reason that it is leading, and further upon the ground that it is not proper redirect examination, and as being incompetent, irrelevant and immaterial, and further that it is not calling for any fact as to which the witness is asked to testify.

A. Yes, sir, or whom Mr. Cobban might elect.

Q. Subject to his orders?

By Mr. WALSH.—We object to the question for the reason that it is leading, and further upon the ground that it is not proper redirect examination; and as being incompetent, irrelevant and immaterial, and further

(Testimony of Chauncey L. Griswold.)

that it is not calling for any fact as to which the witness is asked to testify.

A. Yes, sir.

By Mr. MAYNARD.—I think that is all for the present, but we reserve the right now to re-examine this witness after the holidays, if we desire to, upon any fact that we have failed to examine him upon.

Recross-examination.

(By Mr. WALSH.)

Q. Who was this that made these awful demands upon you about this settlement—these demands that were made of you, who was this that made these demands?

A. My recollection is that it was Judge Marshal.

Q. Thomas C. Marshal? A. Yes, sir.

Q. He demanded of you certain things?

A. Yes, sir. I am not positive, though.

Q. Where were these demands made of you?

A. In the office of Marshal and Stiff.

Q. In the city of Missoula? A. Yes, sir.

Q. Who was present at the time?

A. There was Mr. Marshal, Mr. Stiff, Mr. Duncan, Mr. Draffon, Mr. Cobban, myself, and I believe Mr. Hershey was present. I am not positive on that, though. The other gentlemen I am sure were there.

Q. The others were? A. Yes, sir.

Q. Is that all that you remember?

(Testimony of Chauncey L. Griswold.)

A. There may have been some other person in the room; I couldn't say as to that.

Q. You know Mr. E. B. Howell? A. Yes, sir.

Q. He was there, wasn't he?

A. Yes, sir, he was present.

Q. Overheard this demand, I suppose?

A. No, sir.

Q. It was all open and above board?

A. No, sir.

Q. They didn't call you into any back room and lock you up with anybody? A. Yes, sir.

Q. Right out so that everybody could see what was going on?

A. No, sir; locked in with the gentlemen named in the private room of Marshall and Stiff's office.

Q. Now, I wish you would tell us what Mr. Marshall said to you?

A. There was talk of this thing prior to our meeting in the office of Marshal and Stiff, in Mr. Cobban's office in Missoula, and it is possible that the demand was made in his office, or that it was talked over in his office. I am very positive that the papers were not turned over to Mr. Cobban until it was done in Mr. Marshal's office.

Q. Now, we are getting way off the track, Mr. Griswold. What was said, Mr. Griswold, that is the question.

A. I don't recollect the exact conversation.

Q. Well, I wasn't asking for anything exact, but in substance.

(Testimony of Chauncey L. Griswold.)

Q. Well, I couldn't tell you.

A. The substance of it was this affidavit was written, and I have no recollection of reading it; I don't think I did. I handed it to my attorneys, Mr. Draffen and Mr. Duncan, and with their approval, I signed it. I have no recollection of reading it; don't think that I did.

Q. You mean to say that your attorney, Mr. Draffen, approved this affidavit? A. Yes, sir.

Q. And your attorney, Mr. Draffen, approved this affidavit? A. Yes, sir.

Q. After you had stated to them all the facts in connection with this matter?

A. Yes, sir; and the paper was signed under their directions.

Q. And the paper was signed under the direction of your attorneys? A. Yes, sir.

Q. Were you ever present in Mr. Draffen's office when Mr. Zevely was there? A. Yes, sir.

Q. You and Mr. Draffen and Mr. Zevely had talked this matter over, hadn't you?

A. Partially, yes, sir.

Q. Mr. Zevely had questioned you concerning these matters, hadn't he? A. He had.

Q. You knew he was there for the purpose of making this examination—this investigation, did you not?

A. I did.

Q. And this was before your attorney, Mr. Draffen.

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. And that was the same Mr. Draffen who advised and counseled you to sign this affidavit? A. Yes, sir.

Q. And do you mean to say that Mr. Duncan read the affidavit, too? A. Yes, sir; I do.

Q. Is he a partner of Mr. Draffen?

A. That is my understanding of it.

Q. Well, now, we will go back to what was said about it, Mr. Griswold.

Mr. MAYNARD.—Were those questions that you omitted on your cross-examination, Mr. Walsh?

By Mr. WALSH.—I am asking him about the demand that was made on him before he signed this affidavit. I am cross-examining him on this demand.

By Mr. MAYNARD.—Yes, on that.

By Mr. WALSH.—That is all.

Q. You told us that this affidavit was written up and handed to you, and you don't remember whether you read it over or not, but you know it was read over by your attorneys, and under their advice, you signed it?

A. Yes, sir.

Q. Now, what else was said?

A. Well, I don't recollect. That was two are three affidavits drawn up prior to this time that I wouldn't sign; my attorney wouldn't allow me to sign it.

Q. They weren't drawn up there? A. No, sir.

Q. Where did you get these affidavits that you wouldn't sign?

A. Up in Mr. Cobban's office, where I saw them.

(Testimony of Chauncey L. Griswold.)

Q. From whom?

A. I wouldn't say whether it was Mr. Cobban or Mr. Howell.

Q. Mr. Howell?

A. Mr. Howell or Mr. Cobban, I wouldn't say which one.

Q. Mr. Howell handed you two or three affidavits concerning this matter, prior to the examination of this affidavit, that you wouldn't sign?

A. Either Mr. Cobban or Mr. Howell done so.

Q. Did Mr. Howell have anything at all to do with these affidavits?

A. My recollection is that he wrote them out.

Q. Yes, was present there in the office?

A. Yes, sir.

Q. Well, now, we have got to go back again to this conversation up in Marshal's office, Mr. Griswold.

A. Well, I don't remember the conversation.

Q. Don't remember the conversation?

A. No, I wouldn't attempt to say what it was.

Q. You couldn't state what the language was in substance at all?

A. No, I could not. My recollection is that there wasn't a great deal said there, anyhow. There is one thing that I remember distinctly. This affidavit (meaning the first made before Mr. Zevely) was given to Mr. Marshall to read, and my attorney, Mr. Draffen, wished to eliminate certain portions of the testimony in it not partaining to these lands or in any way to this investiga-

(Testimony of Chauncey L. Griswold.)

tion. Mr. Marshal, after having read the affidavit, was perfectly satisfied that we should eliminate this portion.

Q. What was that portion?

A. A portion that wasn't concerning this matter in any way or manner.

Q. What was it with regard to?

A. It was in regard to timber depredations.

Q. And another affidavit was drawn up then?

A. Well, this is the affidavit that I gave to Mr. Zevely in the first place, not the affidavit that I signed for Mr. Cobban.

Q. Well, we were talking about that now?

A. Well, you wanted to know the conversation and what was said there, and I am trying to tell you.

Q. This affidavit that you testified about this morning? A. Yes, sir.

Q. A portion of that was cut out, only the portion that referred to this investigation?

A. Yes, sir; and Mr. Marshall was perfectly satisfied and delivered the same over to Mr. Cobban.

Q. That wasn't your affidavit, however, that was written out and that was handed you this morning?

A. No, sir.

Q. Written out in longhand?

A. No, that wasn't the one at all.

Q. Well, now, do you mean to say that you didn't read over that affidavit?

A. I have no recollection of reading it over.

Q. And then it wasn't read over to you.

(Testimony of Chauncey L. Griswold.)

A. Not to my recollection.

Q. Well, you knew perfectly well, what was in it, didn't you? A. I did not.

Q. And you swore to it without knowing what was in it?

A. I did under the directions of my attorneys.

Q. You can read, can't you, Mr. Griswold?

A. Well, I am not an expert reader, but I can spell out a few words.

Q. Well, you are able to read well enough to read the affidavit? A. Yes, sir.

Q. It was handed to you? A. It was, yes, sir.

Q. And you signed it? A. I did, yes, sir.

Q. And you were sworn to it? A. Yes, sir.

Q. Now, what if anything was eliminated from that affidavit as it was drawn up?

A. I don't remember that there was anything eliminated from the last one that I signed.

Q. There was another affidavit that you signed in Marshal's office concerning these matters, besides the one that was introduced in evidence here, and that was torn up and written over, wasn't it?

A. That is my recollection of it, yes, sir.

Q. Now, weren't you specifically asked at that time if there was anything that you desired to eliminate from it? A. No, sir, I was not.

Q. And did you state that there was nothing you desired to eliminate from it?

(Testimony of Chauncey L. Griswold.)

A. I did not; I trusted that whole matter to my attorneys.

Q. Were you not at the same time told, before the gentlemen there, that if there was anything in it that wasn't true they didn't want you to sign it? A. No.

Q. You swear to that? A. Yes, sir.

Q. Well, you were told that in substance, weren't you?

A. It might have been in substance; I wouldn't have sworn to it—I wouldn't have sworn to it if there had been anything in there that were lies, having knowledge of the fact.

Q. You intended at the time that you made this affidavit not to swear to anything that wasn't absolutely true?

By Mr. MAYNARD.—He said he didn't know what was in the affidavit.

A. I didn't know what was in the affidavit; I signed it under the direction of my attorneys.

Q. Answer the question.

A. I supposed that my attorneys knew the facts of the case and the contents of the affidavit and would not allow me to sign anything that wasn't a fact; whether it was true or false, I couldn't say. They wouldn't allow me to sign two or three, and this one was drawn up to suit them, and they allowed me to sign that in the presence of these other gentlemen.

Q. You haven't yet answered the question.

(Testimony of Chauncey L. Griswold.)

A. I couldn't answer it any better or in any other way.

Q. The question was, whether you intended at that time to swear to anything that wasn't true.

A. I had no intentions to do so in any shape or manner.

Q. It was just the same to you whether it was true or not, wasn't it? Is that what you want us to understand? A. I trusted that to my attorneys.

Q. And if they wanted you to swear to anything that wasn't true, you were willing to do it?

A. I was not.

Q. Well, why don't you answer the question as to what your attorneys thought?

A. I have answered it to the best of my ability.

Q. Mr. Griswold, when did Mr. Zevely first come to Missoula about these matters?

A. My recollection is that it was last April; I couldn't say as to the date.

Q. When did he next come?

A. Well, I have no recollection of that. I couldn't say, he has been there several times, and I couldn't say.

Q. He happened along there just about the time your trial commenced, didn't he?

A. I believe he was in the city during my trial.

Q. Came there the very day the trial was commenced? A. Maybe.

Q. You knew he was coming, didn't you?

(Testimony of Chauncey L. Griswold.)

A. I couldn't say that.

Q. Couldn't say that? A. No, sir.

Q. You know how he learned that the trial was coming off, don't you?

A. I did not know myself until referee was appointed.

Q. Well, you know your attorney, Mr. Draffen, advised you, don't you? A. I do not.

Redirect Examination.

(By Mr. MAYNARD.)

Q. I would like to know who this firm of Jackway and Faust are, who are those men?

A. They are parties living at Ovando, in Powel county, Montana.

Q. What is their business?

A. Merchandise, court commissioner, postmaster, stock-raisers, sawmill men, and notary public and farmers. I think that comprises a list of their business.

Q. You may state, if you know, as to whether or not they were agents of Cobban in the distribution of his money to these people that made their entries under the Stone and Timber Act?

By Mr. WALSH.—We object to that as being leading, and calling for a conclusion of the witness, and not the statement of any fact; and upon the further ground that it is irrelevant and immaterial to the issues in this case.

(Testimony of Chauncey L. Griswold.)

A. I saw Mr. Cobban give them checks on one or two occasions, and I heard him say to them—

By Mr. BICKFORD.—We object to any conversation that the witness may have overheard between Cobban and the person referred to, for the reason that it is hearsay and irrelevant to the issues in this case.

A. (Witness continuing.)—Or to Mr. Faust, that if he didn't have funds sufficient, that they should use their own private means and Mr. Cobban would reimburse them for the amount they paid out in connection with these land entries, or words to that effect?

Q. Who was Mr. Cobban's attorney when you first commenced the suit against Mr. Cobban?

A. Mr. Hershey and Mr. Howell.

Q. Mr. Hershey, the son in law of Mr. John B. Catlin? A. Yes, sir.

Q. And the receiver in the public land office?

A. Yes, sir.

Q. Is he a lawyer?

By the EXAMINER.—He is the register.

A. He is an attorney too, yes, sir.

Q. And engaged as counsel against you in the first instance? A. Yes, sir.

Recross-examination.

(By Mr. WALSH.)

Q. That was in the action that you brought against Mr. Cobban? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. Mr. Hershey was attorney for Mr. Cobban?

A. One of the attorneys, yes, sir.

Q. One of the attorneys for Mr. Cobban?

A. Yes, sir.

Q. Was he a member of some partnership, law firm in Missoula at that time?

A. Not to my knowledge, I think not.

Q. Wasn't he in partnership with Mr. Howell?

A. I think not.

Q. How long have you known Mr. Hershey?

A. Well, I couldn't say; I think about two years; might have been longer.

Q. He has been practicing law in Missoula during all these years? A. I couldn't say.

Q. You don't know? A. No, sir.

Q. Well, you know he has been a practicing lawyer in Missoula for ten years, don't you?

A. No, sir.

Q. You don't? A. No, sir.

Q. Did you ever have any law suit in Missoula besides this one? A. No, sir.

Q. Mr. Watson sued you, didn't he?

A. Mr. Watson claimed some money that was in my hands—in Mr. Cobban's hands.

Q. In an action against you?

A. Yes, sir, while I was in Pennsylvania.

Q. Who was Mr. Watson's attorney?

A. Why, I think Mr. Prince; I believe he was. I

(Testimony of Chauncey L. Griswold.)

have forgotten his initials, if I did know them. I cannot tell.

Q. But you never heard of Mr. Hershey as a lawyer in Missoula? A. I did, yes, sir.

Q. Well, that is what I asked you. Did you ever hear of Mr. Hershey as a lawyer in Missoula?

A. Yes, sir.

Q. Besides in this case?

A. Yes, sir. Yes, I do know that he has been practicing law there inside of two years, and been retained as an attorney.

Q. On various occasions?

A. I couldn't say as to that.

Q. Well, you know that he is practicing law there?

A. I know that he is practicing law there.

Q. And you know that he has been practicing law ever since you have been in the country?

A. Well, I know of these two instances, that is all. I have no personal knowledge of it other than that.

Q. What two instances?

A. Why, it was a suit that Cobban and Dinsmore had with regard to a water ditch. It was going on what they call their Orchard Home, and it was about that.

Q. Who represented them in that litigation?

A. I don't know that there was any litigation. I

(Testimony of Chauncey L. Griswold.)

don't think there was anything that ever came into court.

Q. Nothing ever came into court?

A. I don't think so. Mr. Hershey was in there a good deal, I understand, and represented Mr. Cobban and Mr. Dinsmore. They said that Mr. Hershey was acting as their legal adviser in the matter.

Q. A matter of some lands that Mr. Cobban owned adjacent to the townsite of Missoula?

A. No, it was about a water right going through other people's land, so that they could get a water ditch through other people's land.

Q. The matter of a water right, water ditch?

A. Yes, sir.

Q. And Mr. Hershey acted as Mr. Cobban's attorney in that matter?

A. Yes, sir, and my recollection is that the land belonged to the Northern Pacific Railway Company, and possibly to individuals, I couldn't say.

Q. You couldn't say as to that? A. No, sir.

(Sig.) CHAUNCEY L. GRISWOLD.

Subscribed and sworn to before me this 20 day of Dec. A. D. 1901.

HENRY W. BLAKE,
Examiner.

(Testimony of Albert Jemison.)

Friday, December 13th, 1901, 2 P. M.

Hearing resumed.

Mr. MAYNARD.—If your Honor please, I spoke to the counsel on the other side about these witnesses who are here. Their testimony, I think, will be very short, and they are here at great expense to themselves, and I would like to put them on the stand and get through with them, and let these Government officials stay a while.

The EXAMINER.—All right.

ALBERT JEMISON, after being duly sworn as a witness for complainant, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Mr. Jemison, what is your name?

A. Albert Jemison.

Q. How old are you?

A. I am about twenty-four years old.

Q. How long have you lived in Montana?

A. About thirteen years—twelve or thirteen years.

Q. Where did you come from?

A. The state of Kansas.

Q. Whom did you come out here with?

A. My father and mother.

Q. What is your father and mother's name?

A. My father's name is Jacob F. Jemison, and my mother's name is Eveline Jemison.

(Testimony of Albert Jemison.)

Q. Where did your father locate first when he came to Montana?

A. In the Bitterroot valley, about three miles east of Victor.

Q. What did the family consist of then?

A. Farmers.

Q. How much of a family did your father and mother have; how many of you were there; how many children?

A. Do you mean altogether of the family?

Q. Of the children, yes, that came out from Kansas twelve or thirteen years ago.

A. I think there was six.

Q. Father and mother and six children came out here? A. Yes, sir.

Q. What did your father do?

A. Why, principally farmer all his life, I guess.

Q. Where did you say he lived?

A. Well, when he first came out from Kansas he lived in the Bitterroot valley, three miles east of Victor, for a few years.

Q. What place did he have there?

A. A ranch.

Q. How much of a ranch?

A. One hundred and sixty acres.

Q. Do you know how he obtained that?

A. He taken it up under the pre-emption act, there in the Bitterroot valley, under that other special act as to fifteen township.

(Testimony of Albert Jemison.)

Q. Known as the Claggett Act?

A. I don't know what it is; that is the only place you can take it up, is in that valley.

Q. Did you live with your father on that ranch?

A. Yes, sir.

Q. For how long a time?

A. All the time he was there.

Q. How long was that?

A. I think about five or six years.

Q. Then where did he go?

A. He moved to Blackfoot, about thirty-two or thirty-three miles above Bonner on the Blackfoot River, right near Clearwater.

Q. Did he leave the ranch, the first one?

A. No, sir, he sold the ranch.

Q. How much did he get for it?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. He got about fourteen hundred for it.

Q. Fourteen hundred dollars? A. Yes, sir.

Q. Then he and your mother and the family moved up to this second place that you had?

A. Yes, sir, that is, those that was to home then.

Q. Were you one of the number?

A. Yes, sir.

Q. Then, what did you get there; what did your father get?

A. Why, he leased a piece of land there for five years that belonged to another man.

(Testimony of Albert Jemison.)

Q. And is he living there now, your father?

A. No, sir; he is living on a piece of school land now, about six or seven miles from this land that he first went onto.

Q. And those are the places that your father has lived on since he came from Kansas here, that you have now named, the three places?

A. Well, there is two different places in the Bitterroot that he lived on; he had a ranch in the Bitterroot that he didn't live on only once in a while, a piece of land that he bought; that was only forty acres. He had two ranches in the Bitterroot.

Q. What has become of them?

A. He sold them both.

Q. Are you living with your father now?

A. Yes, sir; I am boarding with my father and mother now when I am to home.

Q. Are you at home now—not now, but I mean have you been during this fall? A. Yes, sir.

Q. What have you been doing, Albert?

A. I have been building up till the 7th of this month, and then I opened up a saloon.

Q. Whereabouts? A. At Clearwater.

Q. Are you running it now?

A. Well, I suppose I am—

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. I left a man there in charge of it when I came away.

(Testimony of Albert Jemison.)

Q. To testify in this case? A. Yes, sir.

Q. Do you own any real estate yourself?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. I have a homestead near about Clearwater in township fifteen-fifteen, in section twenty-eight.

Q. That you have taken up under the Homestead Act? A. Yes, sir.

Q. How much of a piece of land is that?

A. One hundred and sixty acres.

Q. Have you paid for that? A. No, sir.

Q. Are there any improvements on it?

A. Yes, sir.

Q. What?

A. There is a house and barn and some fences on it and considerable ground plowed and a meadow on it.

Q. Those are improvements that you have put on it since you took it up?

A. Yes, every bit of it.

Q. When does the time of payment come?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. I don't intend—I intend to live the payment out.

Q. Have you made the final proofs yet?

A. No, sir.

Q. How long would that be; five years, isn't it?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

(Testimony of Albert Jemison.)

A. No, sir; it is not five years.

Q. I mean, how long does it take from the time that you first make application before you can make your final proofs? A. From five to seven years.

Q. How long a time is it since you first undertook to homestead this piece of land?

A. Well, sir, I can't remember; it was sometime in August either two or three years ago, I couldn't say which without—it is in the records of the land office at Missoula.

Q. Have you any other real estate besides that?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. No, sir.

Q. Any personal property? A. Yes, sir.

Q. What? A. I have cattle and horses.

Q. Where? A. At Clearwater.

Q. How many?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. I don't just know how many horses or how many cattle I have got; I have somewhere near eleven or twelve head of horses and about eighteen or nineteen cattle.

Q. Are you a married man? A. No, sir.

Q. You have never been married? A. No, sir.

Q. And you say that you are twenty-four years of age. What have you been doing, Albert?

(Testimony of Albert Jemison.)

A. Well, as to that age racket, there is dispute in my age. Now my mother claims that I am twenty-four years old some time in this coming month, and my oldest sister claims that I am only twenty-three, but I guess I am twenty-one years old all right, and have been for some time.

Q. That don't make any difference, Albert. What have you been doing for the last few years?

A. Well, a little of everything; I have been ranching, and laboring on the side.

Q. Have you had some experience in making locations of timber land? A. Not lately.

Q. Have you ever had? A. Yes, sir.

Q. When was that, please?

A. That was some time about two years ago.

Q. Where were you living then?

A. I was living at Clearwater.

Q. And what were you doing when your attention was first called to going into the question of making locations?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. I was staying with my father on this first ranch that he had on the Blackfoot, the ranch that he had leased for five years.

Q. Working for him? A. Yes, sir.

Q. Do you know Mr. Chauncey L. Griswold, the man sitting by my side here? A. Yes, sir.

Q. How long have you known him?

(Testimony of Albert Jemison.)

A. Ever since I went on the Blackfoot.

Q. And that was some years ago? A. Yes, sir.

Q. When you started upon the work of making these timber locations as you have now testified, did you, before commencing the work, see Mr. Griswold?

Mr. BICKFORD.—Objected to because he has not testified that he made timber entries, because it is presupposing an answer of the witness which has not been given; because it is irrelevant and immaterial.

A. Yes, sir; I went to Mr. Griswold, I believe.

Q. Where was Mr. Griswold when you went to see him? A. This was near about Clearwater.

Q. At his home?

A. I don't know whether he had just sold out then or whether it was a few days before; he was there at Clearwater, anyway.

Q. And you saw him? A. Yes, sir.

Q. Who did you go with, if any one?

A. When I went to see Griswold this time?

Q. Yes.

A. I don't believe there was anybody with me.

Q. How did you come to go?

A. Well, I went to him with the "inspections" of getting a timber claim, or getting work to locate timber claims.

Q. Do you mean expecting to get a timber claim; did you use the word "expecting"? Just explain; I don't understand.

(Testimony of Albert Jemison.)

A. Well, I went, as I wanted him to locate me on a timber claim.

Q. And what else?

A. Or else I could try and get in with him some way so I could work with him and locate myself and other people.

Q. How did it happen that on this particular occasion you went to see Mr. Griswold for this particular purpose?

A. I heard the talk around the country about they was locating timber claims.

Q. What was the talk around the country?

Mr. WALSH.—Objected to as immaterial and also as hearsay.

Q. What was the talk that came to your knowledge that led you to go to see Mr. Griswold; what was the subject itself?

A. Well, it was circulated around the country that you could go and take a timber claim, and there was a chance to sell it.

Q. Was there anything more definite or specific that you then heard?

Mr. BICKFORD.—Objected to as hearsay evidence.

Q. What were the people that located timber claims, what were they to get, if you heard?

Mr. BICKFORD.—Objected to as hearsay.

Mr. MAYNARD.—Certainly it is hearsay; we admit that.

(Testimony of Albert Jemison.)

A. Well, I don't know; I heard so many things that I can't say. I believe, if I understood it right at that time, that they was taking these claims, and that there was a market for them.

Q. Please explain just what you mean by that.

A. Well, I meant if I could go and take up a claim and prove up on it and sell it and make anything out of it, I would do it.

Q. This information, you say, had come to you in many different ways previous to your going to Mr. Griswold?

A. Yes, sir; and I don't have much recollection of it, either; it was all hearsay around the country.

Q. So you went under these circumstances to see Mr. Griswold about it? A. Yes, sir.

Q. Where did you see Mr. Griswold?

A. At Clearwater.

Q. Was anyone else present when you saw him there?

A. I don't remember whether there was or not.

Q. Did you make known to him the purpose of your calling on him?

Mr. WALSH.—Objected to as leading.

A. I believe I did; yes, sir.

Q. What information did you receive from him on that subject?

Mr. BICKFORD.—Objected to as being hearsay, and also as irrelevant and immaterial.

(Testimony of Albert Jemison.)

A. Well, he told me if I wanted a claim to go and locate myself and there would be a chance for me to sell the claim, and I would get one hundred dollars clear of all expenses.

Mr. BICKFORD.—We move to strike the answer out because it is irrelevant and immaterial.

Q. Did you, on receiving this information, make a location under the Stone and Timber Act?

A. Yes, sir.

Q. How long after the conversation?

A. I presume five or six days, probably ten days, I don't just know for certain; it was a few days after.

Q. Did you go on the land? A. Yes, sir.

Q. Do you know where it is? A. Yes, sir.

Q. I would ask you if it was the southwest quarter of section ten, township fourteen north, range fifteen?

Mr. BICKFORD.—Objected to as leading.

A. Yes, sir.

Q. You are able to say definitely that that is the description? A. Yes, sir.

Q. Who went with you, Albert?

A. My father did.

Q. And your father's name is Abraham Jemison?

A. No, sir.

Q. What is your father's name?

A. Jacob F. Jemison.

Q. Who else went with you, if anyone?

A. I believe Mr. Griswold was with me on the land.

(Testimony of Albert Jemison.)

Q. Anyone else?

A. I believe one of my brothers. This wasn't all at one time, though; it was different times, a few days separate, five or six days, maybe.

Q. But all about the same time?

A. Yes, sir; all about the same time, but I mean it was not all the same day, though, that I was there.

Q. But you and your father and your brother—what is his name? A. Charlie Jemison.

Q. Anyone else? A. No, sir.

Q. You three, and Mr. Griswold went with you?

A. Mr. Griswold was with me.

Q. When you made your own location?

A. Yes, sir.

Q. Had you ever seen the land before?

A. Yes, sir.

Q. How many times?

A. Well, I guess quite a number of times; I lived right close to the land for five years, and I hunted deer over the land many and many a day.

Q. How long were you on this particular description the first time that you went there?

A. About half a day.

Q. Who, if anyone, did Mr. Griswold inform you, on the occasion of your first visit to him, was to pay you this sum of one hundred dollars and expenses for making this location?

Mr. BICKFORD.—Objected to as leading, and as incompetent, immaterial and irrelevant.

(Testimony of Albert Jemison.)

A. I don't remember; I don't think that he informed me of anybody; just right at that time I thought Mr. Griswold was the man himself; I don't know as he told me so, though.

Q. How many days was it after your first visit to him that he did tell you?

A. Well, I don't remember anything about that. He told me where to go and file, and who to go to, Mr. John B. Catlin, and we did go and Mr. Catlin made our papers out for us.

Q. He sent you to Mr. Catlin? A. Yes, sir.

Q. When did you go to Mr. Catlin?

A. I don't know just when; it was a few days after this, after we were on the land; the next day after me and Griswold was on the land we went down.

Q. Who went with you? A. My father.

Q. And your brother? A. No, sir.

Q. Just your father and yourself?

A. Yes, sir.

Q. Went to see Mr. Catlin after making the locations, and where did you go?

A. He made out our papers for us then.

Q. Where did you go?

A. We went to Missoula.

Q. Did you take anything with you from Mr. Griswold?

A. We took a little piece of paper.

Q. And did you deliver that paper to Mr. Catlin?

(Testimony of Albert Jemison.)

A. Yes, sir.

Q. What was there on that paper?

Mr. BICKFORD.—Objected to because the paper is the best evidence of the facts sought to be proved.

A. I couldn't say exactly what was on the paper; Mr. Catlin's name was signed at the top of it and Mr. Griswold's at the bottom of it, and the words, I couldn't say just exactly; it was something in regards to our names, and we wanted papers for to file.

Q. Calling your attention to the land, can you say as to whether there was anything about the land on the slip of paper anything about the description?

Mr. BICKFORD.—Objected to as leading.

A. Yes, I believe that there was, the west half of the section on the paper.

Q. The description of the land that you had located?

A. Just the west half of the section.

Q. And as a matter of fact that description comprises the two claims?

Mr. BICKFORD.—Objected to as leading.

A. The two claims, yes, sir.

Q. Where did you and your father on this occasion, after going to Missoula, see Mr. Catlin; where did you meet him, if you did as a matter of fact meet him?

A. We met him in Missoula on Higgins avenue, I believe, in what they called then Cobban & Dinsmore's real estate office.

Q. And what did you do?

(Testimony of Albert Jemison.)

A. We made out our papers and filed on this half section of land, a quarter each.

Q. Did you return home? A. Yes, sir.

Q. That same day? A. No, sir.

Q. As a matter of fact, did you or did you not deliver this paper that you received from Mr. Griswold to Mr. Catlin?

A. Yes, sir, I delivered it to Mr. Catlin.

Q. And where was he when he made out these first statements?

A. He was in his office, or I took it to be—where he was working.

Q. You may state as to whether or not, after these papers were made out by Mr. Catlin, you went to the land office?

Mr. BICKFORD.—Objected to as leading.

(Question withdrawn.)

Q. Where did you go after you left his office?

A. We went down to the land office.

Q. Who went with you?

A. My father and Mr. Catlin.

Q. How long did Mr. Catlin remain in the office with you? A. Well, sir, I couldn't say.

Q. During the time that you were there?

A. I know he went in with us.

Q. What did he do there?

A. Well, I believe he told some of the men there that we wanted to file on this land.

(Testimony of Albert Jemison.)

Q. How long in your best judgment were you in the land office?

A. Well, half an hour or an hour, I couldn't just say.

Q. During the sixty days that intervened, where were you?

Mr. BICKFORD.—Objected to as leading and also immaterial.

A. I was up near Clearwater.

Q. Did you at the end of the sixty days come again to Missoula with your father?

Mr. BICKFORD.—Objected to as leading.

A. Yes, sir.

Q. Where did you go this time after you arrived at Missoula?

A. Well, we went to Missoula, and I don't know whether he went to Mr. Catlin's office or not, but we found Mr. Catlin either in his office or on the street, I don't remember now which, and we went and proved up, and the witnesses, I don't remember who they were; I think we helped one another as witnesses, me and my father, but I am not sure.

Q. But previous to going to the office to prove up you saw Mr. Catlin?

A. Yes, sir; Mr. Catlin went with us.

Q. And at the land office you made your final proofs?

A. Yes, sir.

Q. Where did you go after leaving the land office and after having proved up?

(Testimony of Albert Jemison.)

Mr. BICKFORD.—Objected to as immaterial.

A. We went to Cobban & Dinsmore's office.

Q. What was done there?

A. Well, we sold our claims to him there.

Q. How did you sell these claims?

A. Well, I don't understand you; do you want to know how much we got for them?

Q. No. You say you sold these claims, was it to Mr. Cobban? A. Yes, sir.

Q. Were there any writings made?

A. No, sir, only the deed.

Q. Who wrote out the deeds?

A. I don't know.

Q. Did you see them written out?

A. No, I don't believe they was; the deeds were filled out before a notary public, and we signed them up, I believe.

Q. You signed one deed and your father signed the other?

Mr. BICKFORD.—Objected to as leading.

A. Yes, sir.

Q. And where were you when you signed these deeds? A. In their office.

Q. Who was present? A. R. M. Cobban.

Q. Did you receive any money for these deeds on that day from Mr. Cobban? A. Yes, sir.

Q. How much did you receive, and your father?

(Testimony of Albert Jemison.)

A. One hundred and fifteen dollars each, that is, it was considered. Mine, I didn't receive that much; there was an order in that way, that it was considered one hundred and fifteen dollars.

Q. Did your father receive one hundred and fifteen dollars in money? A. Yes, sir.

Q. You say there was an order in your case?

A. I think the order was forty dollars or forty-two dollars; that was against me.

Q. Did he give you the balance in money?

A. Yes, sir.

Q. After your father got his one hundred and fifteen dollars in cash and you got that order for forty or forty-two dollars and the balance in cash for these deeds, where did you go?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

Q. Did you return home then?

Mr. BICKFORD.—The same objection.

A. No; we did the next day.

Q. How long a time elapsed after you proved up before you executed this deed in Cobban's office and received the money from him?

Mr. BICKFORD.—Objected to as immaterial.

A. You mean how long it was before I sold the claim after I proved up?

Q. Yes.

(Testimony of Albert Jemison.)

A. Well, I guess somewhere about eight or ten or twelve hours; we proved up in the morning and sold it in the evening.

Q. And settled in the evening, after supper?

A. It was after dinner, some time in the afternoon.

Q. Did Mr. Cobban or Mr. Catlin, after you left the office did you see them again after you proved up until you went to the office?

A. I don't remember whether I did or not.

Q. You don't remember after leaving the land office and after making your final proofs as to whether you had seen either of those men?

A. After I left the land office, yes, I see them.

Q. Where?

A. I see them at Mr. Cobban's office, just as I said before.

Q. When you executed the deeds?

A. Yes, sir.

Q. Had you seen them before that day?

A. No, sir, I didn't know Mr. Cobban before; if I did, it was only a short time before I proved up.

Q. So you had no conversation with Mr. Cobban at all? A. No, sir.

Q. And didn't know him previous to your going on this afternoon, or late in the afternoon or early in the evening of the day that you proved up, to sell the land to him?

A. No, sir; that is my question here—I mean that I

(Testimony of Albert Jemison.)

had no conversation with him about selling the land to him.

Q. Had you any conversation with anyone in regard to selling the land?

A. Well, I don't know but what I would consider that I did with Griswold.

Q. And was it by reason of the fact of the conversation that you had with Mr. Griswold that you on the afternoon of the evening of this day that you proved up, went to Mr. Cobban's office?

Mr. WALSH.—Objected to as leading.

A. No, sir; the only talk I had with Griswold was the time that I located or a few days afterwards.

Q. Then what was the substance of that conversation?

A. Well, it was in regard to the claim.

Q. Didn't he at that time tell you about this, how much you were to get for your land? A. Yes, sir.

Q. And how much were you to get?

A. One hundred clear of all expenses.

Q. And was that the reason that you went to Mr. Cobban's office on this day?

Mr. WALSH.—Objected to as leading.

A. Well, I don't know as it was altogether, no, sir, but the reason that I went to Mr. Cobban's office that day is because I knowed that he was buying timber claims and I went there with a view to selling it after

(Testimony of Albert Jemison.)

we proved up, and I got the money from Mr. R. M. Cobban to prove up on.

Q. And you had not seen Mr. Cobban until after you proved up, then?

A. Well, I don't know but what I said here once, that I told you that I knowed Mr. Cobban a few days; if it was a few days before I proved up; I believe it is in here; if the stenographer will read it for us I believe you can find it.

Q. What is the fact; just answer the question that I put to you there. A. Yes, sir, I had.

Q. Where?

A. Either in town there or at his place or somewhere in Missoula.

Q. On that day?

A. On the day we proved up?

Q. Yes.

A. No, I don't believe it was; it must have been a few days before; I am not so certain, though, when it was.

Q. Do you know whether you did see him or not?

A. Yes, I do.

Q. What did you see him about?

A. I see him about getting money and about proving up on the claim.

Q. You got the money on this day that you testified to, on the day that you proved up?

A. Yes, I got the money on that day.

(Testimony of Albert Jemison.)

Q. How long were you and your father in Mr. Cobban's office?

A. Well, we were in there I don't know how long, half an hour or an hour, I guess.

Q. Were the deeds drawn up before you got there?

A. I couldn't say for that.

Q. You didn't see them drawn up?

A. No, sir; I did not.

Q. They were presented to you already drawn up, were they not? A. Yes, sir.

Q. Now, then was there any money paid by you at the time of proving up on these lands?

A. No, sir.

Q. Was there any money paid to your knowledge by your father?

A. Not to my knowledge, there was not.

Q. And don't you know positively and absolutely as a matter of fact that there was not any paid by your father?

Mr. BICKFORD.—Objected to as leading.

Mr. MAYNARD.—Yes, it is leading; we admit it.

A. Well, I couldn't say that, but to the best of my knowledge from what I seen, I didn't see any money paid by my father.

Q. And you never heard of any money being paid by your father did you?

Mr. WALSH.—Objected to as immaterial and as hearsay.

(Testimony of Albert Jemison.)

Q. You have no knowledge at all of any kind of your father's paying any money?

A. I don't know as I do.

Q. And you know you didn't? A. No, sir.

Q. Do you know where the money came from that went to pay for your location? A. Yes, sir.

Q. Where did it come from?

A. We got it from Mr. Cobban.

Q. Now, then, if you didn't sell before you proved up; how did you get this money, four hundred dollars, from Mr. Cobban?

Mr. BICKFORD.—We object, because it calls for a conclusion of the witness, and because it is irrelevant and immaterial.

A. It was paid in there at the land office on our claims.

Q. Just answer the question, please.

A. Well, Mr. Cobban furnished the money for this claim, both of the claims.

Q. That is eight hundred dollars, then?

A. Yes, sir; or whatever the amount was in the land office.

Q. And you knew that he was to furnish the money, did you not? A. Yes, sir.

Q. Where did you first learn the fact that he was going to pay this money for you previous to your making this final proof?

A. Well, I heard it around through the people.

(Testimony of Albert Jemison.)

Q. What I mean, Albert, is this: you said that you knew he was to pay this money when you went to the land office to prove up?

A. That I knew he was to pay for it—yes, I knew that.

Q. When did you make this arrangement with Mr. Cobban?

Mr. BICKFORD.—Objected to because the witness has not said that he made any agreement with Mr. Cobban.

A. I didn't make any agreemnt with Mr. Cobban, only that I took this claim, and when I took it, I took it with the intentions of selling it, and the money was furnished, and I didn't have to make any agreements.

Q. But you knew the money was to be furnished?

A. I believe I said that once.

Q. Well, after your father and yourself had made these locations of these particular descriptions that you have now testified to, were you engaged thereafter in making locations under this Stone and Timber Act for other people?

Mr. BICKFORD.—Objected to as leading.

A. Yes, sir.

Q. How long a time did you spend in that work?

A. I don't just know; four or five months, or three months; I worked about four or five months altogether, I guess.

(Testimony of Albert Jemison.)

Q. Making locations for others under this Stone and Timber Act?

A. Well, no; I worked considerable by the day.

Q. You worked by the day and in what other way?

A. Well, I was running a compass for the estimators.

Q. How much of this three or four or five months, whatever it may be, were you working under an agreement with Mr. Griswold?

A. Well, I couldn't just exactly say; I think it was something over a month or something like that, or it might have been considered that I was working all the time. I made arrangements with Mr. Griswold about some claims, and then I worked for other people, and finally I didn't work any at all for Griswold any more, nor didn't tell him anything about that I was going to quit or anything about it.

Q. Where were you when you entered into the contract with Mr. Griswold to do this work for him?

A. Well, I don't think just where that was; it was either down somewhere about Missoula or up at Clearwater that we had the talk; I don't know just where it was.

Q. What was the result of that talk?

A. Well, he told me to go ahead and locate people and put them on claims, and I don't remember now—I think first along I took them to him and he took them to the office himself.

(Testimony of Albert Jemison.)

Q. To what office?

A. Cobban & Dinsmore's office.

Q. And after that you say that you reported yourself? A. I did some, yes, sir.

Q. Just state to us, please, what you did; just what you mean by reporting. Take a case of one of these people that you located and describe it.

A. Well, sir; we would go out into the timber and we would find a claim that had suitable enough timber on it and suited them, and we would look over it, and I would give them a piece of paper and send them to Mr. Catlin with just the numbers of the land on them, of the claim, and their name and my name.

Q. Substantially the same kind of paper that you received from Mr. Griswold when you made your own location?

Mr. WALSH.—We object to the testimony of the witness concerning the contents of the paper, because the paper itself is the best evidence; and also to this question now put to the witness concerning the character as compared with the character of the paper that he had for the same reason, that the paper is the best evidence.

A. Something similar.

Q. How many of these locations did you make?

A. I don't have any idea how many; something over forty, I guess, or more.

Q. Forty or more? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. How many of the forty, in your best judgment, were men and how many were women?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. I don't know; I think pretty near half was women, but, anyway, I think sixteen out of the forty would be my judgment; I don't know the number.

Q. Now, of these forty proportioned among men and women as you have now stated, did they come to you first or did you go to them?

Mr. BICKFORD.—Objected to as immaterial.

A. They would come to me.

Q. Whereabouts?

A. Wherever I would be, and I was all over the neighborhood then; sometimes in Missoula and sometimes along the road between Missoula and Clearwater, and around Clearwater.

Q. What would they come to you about?

A. Well, they would want me to locate them on a claim; they paid me ten dollars for locating them on a claim; each and every one of them give me ten dollars for locating them on a claim, all except them that beat me out of it.

Q. Was that over and above the compensation that you received from the man you were working for, Mr. Griswold, for each location?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

(Testimony of Albert Jemison.)

A. Yes, sir.

Q. How much under the agreement that you made with Mr. Griswold were you to receive from him for each location?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. Well, I got different prices from Mr. Griswold.

Q. What was the agreement, if any?

A. First the agreement was ten dollars.

Q. That he was to pay you?

A. For each one, each location.

Q. Then how did it come to change from that?

Mr. BICKFORD.—Objected to as immaterial.

A. I went to him one time, and when I was getting my money from him, there was several there in the bunch in the settlement that he allowed me fifteen dollars each for.

Q. So that it ranged from ten to fifteen dollars that you received from Mr. Griswold for each location?

A. That is what I done for him, yes, sir.

Q. And the ten dollars that you received from the persons that were to make the locations was in addition?

Mr. BICKFORD.—Objected to as leading.

A. Yes, sir.

Q. So that you received from twenty to twenty-five dollars for making a location? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. How did these people come to pay you ten dollars?

Mr. BICKFORD.—Objected to as immaterial.

A. Why, they would leave it for me in town somewheres, or some paid me in advance.

Q. How did they come to pay you for making the locations?

A. Well, I guess because they wanted a claim.

Q. And what were they to get?

Mr. WALSH.—Objected to; that does not ask for testimony from the witness of any fact. If the witness had any conversation with any of them, he ought to give the conversation.

A. For their claim you mean?

Q. Yes.

A. Well, now, sir, that is what I don't know; there was only one or two that I said anything to in regard to what they were to get; they knowed themselves.

Q. How do you know that they knew themselves?

A. Well, I don't know exactly as I knowed that; I just supposed so; they would come and want a claim, and I guess they knowed what they was going to do with it.

Q. And what was that?

A. I don't know as I could answer that.

Q. But in each and every case that you made the locations, you gave them a note to Mr. Cobban?

A. No, sir; to Mr. Catlin.

(Testimony of Albert Jemison.)

Q. And never to Mr. Cobban?

A. Either to them or to Cobban & Dinsmore's office; I will take that back; it was either that way or to Mr. Catlin.

Q. And the Cobban of Cobban & Dinsmore is Mr. R. M. Cobban, who is here in the room now, isn't it?

A. Yes, sir.

Q. In one or two cases that you recollect of telling them what they were going to get, what did you say to those two people?

Mr. WALSH.—We object to that as immaterial and irrelevant, a declaration that in no manner is chargeable against the defendant.

A. I don't remember their names, but what I think I told them was that they could sell their claim if they wanted to take it up and they would get a hundred clear of all expenses.

Q. One hundred dollars if they would make the location over and above all expenses? A. Yes, sir.

Q. Whom did you tell them that they were to receive this from?

A. Well, I don't exactly remember now, but if I did tell them, it was the parties of Dinsmore & Cobban.

Q. Of the forty or more men and women that you located, that came to your place to see you about it about getting you to help them to make these locations under these circumstances, were they all the number that came? A. You mean just them two?

(Testimony of Albert Jemison.)

Q. No, no; were the forty all that came to your place? A. Well, I couldn't say for that.

Q. What I want to find out is as to whether there were more claimants than there were locations?

A. Yes, sir.

Q. How many more people were anxious to make locations over and above the locations themselves?

Mr. BICKFORD.—We object.

A. About twice as many, I guess, as did get claims.

Q. So that, of the people that came to you to aid them in getting locations for them, you were only able to satisfy half of them?

Mr. BICKFORD.—Objected to as leading, also as irrelevant and immaterial.

A. Yes, sir.

Q. Now, then, in addition to this work that you did pursuant to this contract with Mr. Griswold, did you have an individual contract or agreement with Mr. Cobban himself?

Mr. BICKFORD.—Objected to as leading.

A. Yes, sir.

Q. When and where did you make this agreement with Mr. Cobban himself?

A. I think that was in his office.

Q. In Missoula? A. Yes, sir.

Q. Can you fix the time?

A. No, I don't think I can; it was some time—I couldn't say—I know it was when we were in that work.

(Testimony of Albert Jemison.)

Q. Will you please tell us the conversation that you had with Mr. Cobban?

Mr. BICKFORD.—Objected to as irrelevant and immaterial, and because it would be hearsay evidence.

A. He told me not to make any agreements unless it was in as a loan, and we had other words in that way, I don't just remember now how it was.

Q. You don't remember when that conversation took place? A. No, sir.

Q. How did you happen to have the talk with him on the subject?

A. Why, I believe it was when he made arrangements with me for to put some people on some claims.

Q. That was how many months after you had been working for Mr. Griswold? A. I couldn't say that.

Q. Well, in your best judgment?

Mr. BICKFORD.—We object, because the witness has already answered that he doesn't know.

A. I am not sure about that; I think that I had some claims then that Mr. Griswold had not paid me for yet.

Q. Did you ever have any trouble at all in getting your pay from Mr. Griswold for making locations under his contract with you?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. No, I can't say as I did.

Q. Did you not receive the agreed price in each and every case? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. And how many of these payments did you receive from Mr. Griswold?

Mr. BICKFORD.—Objected to as irrelevant and immaterial.

A. I don't know how many.

Q. Well, according to your best recollection?

A. I got several payments, and I don't have an idea—I should say five or six, or four or five different payments.

Q. And the payments, then, would they embrace a number of locations? A. No.

Q. What do you mean by the four or five payments; were they just ten dollars four or five times, or were they bunched in?

Mr. BICKFORD.—Objected to as leading.

A. Oh, yes, they would be in bunches; he would put the claims— Do you mean he paid me for more than one at a time?

Q. Yes, that is, what I mean.

A. Yes, sir, in bunches.

Q. How many, in the four or five or six different bunches of payments, how many were embraced in them in your best judgment—how many locations?

Mr. BICKFORD.—Objected to as leading and also as irrelevant and immaterial.

A. Well, I couldn't say. There was one bunch that there was quite a number of names and locations, and

(Testimony of Albert Jemison.)

there was some, one or two I didn't have very many in, and I don't know—

Q. Just tell us according to your best recollection or knowledge?

A. I see one of the papers to-day, but I don't know how many was on it; there was quite a number.

Q. Is this the paper that you have just referred to?

A. Yes, sir.

Q. Were all those names in one of these bunches of orders? A. Yes, sir.

Q. You identify this as the paper?

A. Yes, sir; it is in my own handwriting.

Mr. MAYNARD.—I desire to offer this in evidence.

The EXAMINER.—It will be marked for identification Exhibit "D," complainant.

Mr. BICKFORD.—We object to the paper because it doese not purport to be anything that has any authenticity, does not have any bearing upon the issues in this case, and is therefore irrelevant and immaterial.

Mr. MAYNARD.—We desire to read this into the record.

The EXAMINER.—Very well.

Mr. MAYNARD.—This paper reads in letters, the letter heading of Cobban & Dinsmore, and reads as follows: in the left hand corner "R. M. Cobban," in the right hand corner "Samuel Dinsmore." "Cobban & Dinsmore,

(Testimony of Albert Jemison.)

Real Estate and Loans, Missoula, Montana," a blank for the date, and the following names of locators appear:

Mr. BICKFORD.—We object, because counsel is interpolating the words "names of locators" which do not appear on the paper.

The EXAMINER.—Well, read the paper just as it is.

Mr. MAYNARD.—Certainly. "J. F. Jemison, Miss Dildine, Miss Jemison, Miss Roll, Albert Jemison, Miss Yarger, J. P. Gilman, Miss Gilman, Recy Jemison, W. J. Eddy, G. O. Dildine, Calvin Yarger, Herb. Eddy, Miss Eddy, Thomas Roll, James Wheaton, Mary Eddy, A. J. Jemison, James Mize, Jennie Mize, C. H. Jemison, Zora Jemison, John T. Hendrix, Robert Starkie, John B. Reeves."

Q. Those four names in the left-hand corner do not belong to the paper, do they?

A. I don't know; I don't think they do. No, they don't.

Q. What about these names that appear on the back of the paper in lead pencil?

A. That is some of Chauncey's writing.

Q. Mr. Griswold's, a memorandum on the back of the paper; that don't belong to this paper that you handed me? A. No, sir.

Mr. BICKFORD.—I want to interpose this objection, if your Honor please. In reading the paper, the counsel for plaintiff has interpolated the words "the names of

(Testimony of Albert Jemison.)

the following locators," which do not appear upon the face of the paper. He has also omitted from reading four names on the lower left-hand corner of the paper, and has also omitted reading from the paper figures and words upon the opposite side thereof which are written thereon in what appears to be a different handwriting.

The EXAMINER.—The Examiner will instruct the stenographer to insert everything that appears upon this paper that may have been omitted.

Mr. MAYNARD.—I desire to state that the four names in the left-hand corner are—

The EXAMINER.—I understand your position, but when you offer the paper the other counsel have a right to insist that everything on the paper be inserted in the record.

Mr. MAYNARD.—I don't question that at all, but I object to any inferences being drawn or anything being said to the effect that it was intentionally omitted on my part, and I state the reason why it was omitted, because the witness said that those did not belong to the paper which he handed to Mr. Griswold, but were simply memoranda put on there latter, and were made subsequent to the handing of the paper by him to Mr. Griswold, and by someone else that he knows nothing about.

Mr. WALSH.—The witness said so.

Mr. MAYNARD.—I know he swore to that, but I don't like counsel to impugn my motives.

(Testimony of Albert Jemison.)

Said exhibit has in the lower left-hand corner, the following:

"N. J. Ehle
Scott,
Northy,
Russell."

And on the back:

"J. B. Reeves, Root Starkie, Irene Hendrix, Mrs. Starkie, Mr. Reeves, Albert Ahle—kicks."

Q. Now, Mr. Jemison, was this first paper that you handed to Mr. Griswold? A. I think it was.

Q. And in your best judgment then, was this paper handed to him? A. Well, sir, I couldn't say.

Q. Oh, yes, you can; you can give us your best judgment on the matter.

Mr. BICKFORD.—We object to the statement of counsel to witness that he can give his best judgment.

Q. From your best recollection, when was it?

A. Well, as near as I can remember, it was about a month after I proved up.

Q. After you yourself proved up?

A. And I think I proved up on the 22d of September; I am not positive of that now, either.

Q. And how many more papers containing the names of the people that you located did you give to Mr. Griswold?

A. Well, I don't remember now whether there were any more papers that I gave him, or whether he drawed

(Testimony of Albert Jemison.)

them out by my memory or not; I don't just remember now how he did.

Q. Well, now, it will be necessary, Mr. Jemison, to call your attention to these different persons that you located, and the first one is Miss Dildine; what is her first name?

A. Mrs. Dildine; Emma Dildine.

Q. Is she a married woman? A. Yes, sir.

Q. Where does she live?

A. She lives in Missoula.

Q. Is she any relation to you?

A. Yes, sir, she is my sister.

Q. Now, then, do you remember the facts connected with your locating your sister, Mrs. Dildine?

A. Yes, sir, I do to a certain extent. I located her, I think, on section twelve in township fourteen-fifteen; I don't just know what quarters she got, though.

Q. Was it the east half of the southeast quarter and the southwest quarter of the southeast quarter and the southeast quarter of the southwest quarter of section twelve, township fourteen north, range fifteen west?

Mr. WALSH.—Objected to as leading.

A. Yes, sir, I think it was.

Q. Did she come to you, Albert, or did you go to her?

A. Well, I was working—in odd times I was in Missoula and some of the times I would stop to her place, and she told me one day that if I could get her a good claim, why, that she would come up, and so in a few

(Testimony of Albert Jemison.)

days she went up and I took and showed her that claim.

Q. Had you previously selected this location?

A. Before we went onto it, yes, sir.

Q. You knew where you were going to take your sister? A. Yes, sir.

Q. How old a woman is she?

A. About thirty-seven years.

Q. What does her husband do in Missoula?

A. He is a carpenter.

Q. Has she any children? A. Yes, sir.

Q. How many? A. Five.

Q. Who went with your sister when you went up there to make this location?

A. Mr. Dildine, I think.

Q. Her husband? A. Yes, sir.

Q. What is his name? A. George Dildine.

Q. Anyone else?

A. No, I don't know as there was.

Q. Did you make a location for George, your brother in law, at the same time?

Mr. BICKFORD.—Objected to as leading.

A. No, sir.

Q. Did you make a location for him?

A. Yes, sir.

Q. Before or after?

A. About a month afterwards as near as I can recollect; it was some time afterwards,

(Testimony of Albert Jemison.)

Q. What did you do when you went with your sister to make this location?

A. We went onto the claim.

Q. How long were you on the claim?

A. I guess not over a couple of hours.

Q. What did your sister do during the two hours?

A. She walked over the claim with me.

Q. Did you make any other locations on that day?

A. Yes, sir.

Q. Who for?

A. For Sarah Yarger, I believe, on that same section.

Q. Was she along? A. Yes, sir.

Q. Who is Sarah Yarger?

A. She is a lady that lives in the Bitterroot valley.

Q. How old a woman is she?

A. I don't know; I should judge about fifty.

Q. Is she a married woman? A. Yes, sir.

Q. What does her husband do?

A. I believe he is a stonemason.

Q. A stonemason in the Bitterroot valley?

A. Well, yes; he works around those small towns.

Q. Is Mrs. Sarah Yarger any relation of yours?

A. No, sir.

Q. How did it happen that she went with your sister and your brother in law on this particular day?

A. Why, Sarah Yarger and several other parties was up there from the Bitterroot, camped right near our place.

Q. In camp? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. At a summer resort?

A. Well, they claimed that they was out on a kind of outing and for the purpose to get them some claims, too.

Q. And she went along with you this day and you located her? A. Yes, sir.

Q. Had you ever seen her before this day?

A. Yes, sir.

Q. When?

A. Well, I used to see her very often when I lived in the Bitterroot valley; we were neighbors.

Q. I mean, had she seen you in regard to getting a location for her previous to this day?

A. She had seen me before I went to Missoula; they was there when I went to Missoula; then, when I came back, my sister came up the same day I came back up.

Q. How long before you went to Missoula did you see Sarah Yarger?

A. I seen her, I think it was the day before I started to Missoula.

Q. And you saw her at this camp?

A. Yes, near about our place.

Q. Had you seen her before that time?

A. Not for a year or two nearly.

Q. So that it was on this day then, while you were on your way to Missoula to get your sister that you saw her at this camp; did you have any conversation there with her? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. Did she commence it, or did you?

A. They said that they came up after claims, and I told them I though I could fix them out all right.

Q. They said they wanted to be in it, too, did they?

Mr. BICKFORD.—Objected to, leading.

Q. Was that the substance of it?

A. No, I believe I said the substance of it.

Q. Was this a chance meeting that you had there with her at this camp on this day?

Mr. BICKFORD.—Objected to; leading.

A. No, sir; they came up there and camped right about our place, a-purpose to see me, I suppose.

Q. How many were there in this camp?

A. I am not certain; I think there was five or six.

Q. Who were they that were in camp that had come up there to see you about these claims?

A. Well, there was Mr. Yarger and Mrs. Yarger, and Mrs. Eddy and Herbert Eddy, and I believe another Mr. Eddy, a brother of Herbert Eddy, and his wife.

Q. So you went on to Missoula and got your sister and brother in law and came back and took up Sarah Yarger and went onto these locations?

Mr. BICKFORD.—Objected to; leading.

A. Yes, sir.

Q. Tell us what you did with Sarah Yarger?

A. Well, I took her onto her claim. Her claim, I think, if I am not mistaken, joins Mrs. Dildine's; it is in section twelve.

(Testimony of Albert Jemison.)

Q. Which you had previously selected yourself?

A. I had these claims selected, ready for an opportunity.

Q. And you say that that joined your sister's?

A. Yes, I think it is in section twelve.

Q. Are you able to say that that was the west half of the northwest quarter and the west half of the southwest quarter of section twelve, township fourteen north, range fifteen west?

Mr. WALSH.—Objected to; leading.

A. Well, does that read just as it comes in the record?

Q. Yes.

Mr. BICKFORD.—You had better be sworn.

Q. Well, I will ask the question over again.

A. Yes, I will answer it; I am almost certain that that is the claim. I know that she has a quarter section in section twelve in township fourteen north, range fifteen.

Q. How long was Mrs. Sarah Yarger on this particular description on this day that you have now named?

A. Well, they was on there considerable longer, I guess, than me and Mrs. Dildine was; we went back and left them up there in the mountains.

Q. Did you give the usual slip of paper to Mrs. Yarger? A. I think I did.

Q. Did you return to Missoula with your sister?

(Testimony of Albert Jemison.)

Mr. BICKFORD.—Objected to; leading.

A. I am not certain, but I believe I did; I went down with that party, too; the other party did. My sister went down, I think, the same day they did, when they went back.

Q. In the meantime had this party that was in camp all got locations?

A. Yes, sir, I got claims for all of them before we went down.

Q. And your sister accompanied you, and remained up in the mountains until you had succeeded in making locations for the parties that you have named?

A. No, sir. This was done different days.

Q. I mean did she stay up there?

A. She was with me the time that I located these two claims in section twelve.

Q. And stayed up and didn't return to Missoula until she returned with you?

A. She stayed at our place with my father and mother.

Q. So how many of the party returned to Missoula when you went down to Missoula; how many went with you?

A. I don't know just for certain; I think there was six or seven and may be more.

Q. And their names?

A. Mrs. Dildine and Mrs. Yarger.

(Testimony of Albert Jemison.)

(By Mr. ZEBLEY.)

Q. Emma Dildine and Sarah Yarger?

A. Yes, sir.

Mr. BICKFORD.—We object to the question and answer and move to strike them out because it is leading.

Mr. ZEVLEY.—That was not a question; I just wanted to get the names for a notation.

(By Mr. MAYNARD.)

Q. Go on as fast as you can, and give us the other names.

A. Well, now, looky here; I can't get all their names, and if I did it would be all mixed up and everything, so when you look over the records, maybe none of it will be right. I can't remember all this just to a gnat's heel.

Q. You have already given us the names of the persons who were in camp?

A. I can give you those names.

Q. I want those names.

A. William Eddy and Herbert Eddy and their two wives, Eveline Jemison; you got Mrs. Dildine, didn't you?

Q. Yes, and Sarah Yarger.

A. Well, I think, to the best of my recollection that was all there was in that crowd.

Q. What was the name of William Eddy's wife?

A. Matilda Eddy.

Q. And Herbert's wife?

(Testimony of Albert Jemison.)

A. Mary Eddy. Those are names that I am just familiar with; there is other names that I can't pretend to give.

Q. All these parties came down from the mountains at this time in this party? A. Yes, sir.

Q. And they had each of them made locations which I will call your attention to later. Now, what did you do after you arrived at Missoula with this party of men and women?

A. Well, I believe I went in the office with them.

Q. What office?

A. Cobban & Dinsmore's office, and Mr. Catlin was there, and I told him that those were people that wanted to file, and I had the numbers already down on a piece of paper, and I gave that to him and I went off; I had other business to look after.

Q. And you left them there?

A. Yes, sir. They filed on these lands, which I understood afterwards.

Q. Now calling your attention to the location of Matilda Eddy.

A. She was located on section fourteen, township fourteen-fifteen.

Q. How long after going with your sister and Sarah Yarger did you take Matilda Eddy to this location?

A. Why, they was located on those lands all during in about three days, those same parties there, just at the time before I went to Missoula with them; I think I was three days showing them their claims.

(Testimony of Albert Jemison.)

Q. Locating these parties? A. Yes, sir.

Q. And you say that the land located by Matilda Eddy was in section fourteen of town fourteen north, range fifteen west? A. Yes, sir.

Q. You know the land, do you? A. Yes, sir.

Q. And as to the particular description, is it the southeast quarter of the northeast quarter, the north half of the southeast quarter and the southeast quarter of the southeast quarter?

Mr. BICKFORD.—Objected to; leading.

A. Yes, sir.

Q. Now, please tell me who this Matilda Eddy is.

A. The wife of William J. Eddy.

Q. And how old a woman is she?

A. I don't know for sure; I think she was about nineteen years old or twenty; that is to the best of my knowledge.

Q. How long had you known her?

A. Ever since I was a kid.

Q. Had she lived right in your neighborhood, then?

A. Yes, sir; she is a niece of mine.

Q. And what was her maiden name?

A. Matilda Roll.

Q. How long had she been married to Mr. Eddy prior to this location?

A. I think some where in the neighborhood of nine months; seven or eight or nine months; I don't know just for certain to a month.

(Testimony of Albert Jemison.)

Q. Previous to her marriage what had she done for a living, if anything?

A. She stayed with her folks. She stayed with other folks some and went to school off and on for about a year and a half before she was married.

Q. She went to school?

A. Stayed with other folks and went to school some, yes, sir.

Q. A year and a half before her marriage she had gone to school? A. Off and on, yes, sir.

Q. Had she during her lifetime done any work that you know of except living at home?

Mr. BICKFORD.—Objected to; irrelevant and immaterial.

A. Well, I presume she worked ever since she was big enough to work.

Q. At her father's home? A. Yes, sir.

Q. Do you know of her having ever worked out?

A. Well, I don't know whether she ever drawed any salary or not; she stayed with people that she was acquainted with and went to school; I don't know whether she drawed any salary or not; I know she stayed with people.

Q. What was her father's occupation?

A. Farmer.

Q. How much of a farm did he have?

A. One hundred and twenty acres.

Q. Whereabouts?

A. About three miles and a half east of Victor.

(Testimony of Albert Jemison.)

Q. How long had he lived on it.

A. That would be back at that time, wouldn't it?

Q. Yes.

A. About seven years.

Q. How much of a family did he have?

A. Five children.

Q. Wife and five children? A. Yes, sir.

Q. Do you know how he held this land that you have said that he was living on?

A. Well, he taken it up under some right, I don't know whether it was a homestead right or a pre-emption right, I couldn't say; he taken the land up though.

Q. Do you know whether at this date he had proved up on it? A. Yes, sir, he had.

Q. What personal property did he have?

A. Cattle and horses.

Q. How many horses?

A. Five or six head, and about forty-five or fifty head of cattle.

Q. Now, then, you say that nine months before this time she had married young Eddy?

A. Somewheres there, yes, sir.

Mr. BICKFORD.—He didn't say he was young, did he?

Q. How old is Mr. Eddy, her husband?

A. He is a man, I should judge, about twenty-five or twenty-six; I never asked him how old he was.

Q. What does he do for a living?

(Testimony of Albert Jemison.)

A. He is a farmer.

Q. How much of a farm did he have?

A. Three hundred and twenty acres.

Q. How did he hold that three hundred and twenty acres, by what title? A. He holds two rights.

Q. What are they?

A. Well, I couldn't say; one, I think, is a homestead, and the other is a pre-emption right down in that valley.

Q. How long had he held that under either of these rights?

A. About a year and a half or two years, I don't know for certain; somewheres there; about two years, I think.

Q. Had there been any improvements made upon this land previous to his taking it up?

A. Yes, sir, it is well improved.

Q. What are the improvements?

A. There is barns, houses, and fences, and the land is seeded down and most all cultivated, and several acres into orchard.

Q. Was this done before he went on it?

A. No, sir.

Q. He did it himself?

A. He done with it himself and hired labor.

Q. In the two or three years that he had been in possession of it? A. Yes, sir.

Q. How much would you say that the entire property, improvements and all, is worth in cash?

(Testimony of Albert Jemison.)

A. Six thousand dollars; that is as near as I would judge of it.

Q. How much did he owe on it, if you know?

A. Why, I don't think he owes a cent on it.

Q. You don't know? A. I don't know.

Q. Do you know whether these claims had been proved up or not? A. That he is on?

Q. Yes.

A. The pre-emption right, I think, is proved up on, but the homestead I don't think is yet.

Q. You say she is a cousin of yours?

A. Niece.

Q. Did she speak to you about this first?

A. Well, I believe my mother wrote to them and told them that I was locating claims and if they wanted to take one to come up.

Q. How far is their home from your place?

A. About eighty-five miles.

Q. And how long after your mother sent this letter did they come up? A. In about a month.

Q. Who came along?

A. Well, there was that first party that you just took the names down there.

Mr. BICKFORD.—This has all been testified; we are just thrashing over old straw.

Q. Do I understand that they came with your niece?

A. Yes, that is the same bunch.

Q. The same party?

(Testimony of Albert Jemison.)

A. With the exception of Mrs. Dildine and my mother; they didn't come from the Bitterroot at all; Mrs. Dildine came from Missoula, but the rest of them came from up in there.

Q. Now, who is this Matilda Eddy?

A. Matilda Eddy is the one that we have been talking about.

Q. Who is Herbert Eddy?

A. He is a brother of William Eddy.

Q. Where does he live?

A. He lives right by his brother there; their ranches joins one another.

Q. And Mary Eddy is his wife? A. Yes, sir.

Q. Is she any relation to you? A. No, sir.

Q. When did you see Herbert Eddy in regard to this?

A. When they came up there by my place.

Q. Had you ever seen him before?

A. I had two or three years ago, often.

Q. How old a man is he?

A. I should judge he is a man about thirty years old.

Q. How old is his wife, Mary?

A. I think she is somewhere about twenty-four.

Q. Did you know her previous to her marriage?

A. Yes, sir.

Q. Who was she?

A. Her name was Mary Van Blarken before she was married.

Q. Where did she live?

(Testimony of Albert Jemison.)

A. In that same neighborhood, about four miles west of Victor.

Q. Who was her father?

A. We always called him "Old Van," I don't konw his first name—yes, Dave Van Blarken is his name.

Q. Who was Dave Van Blarken?

A. Her father; he was a rancher there in that country, in that part of the settlement.

Whereupon hearing was adjourned until Dec. 14th at 10 A. M.

HENRY N. BLAKE,
Examiner in Chancery.

Saturday, December 14th, 1901, ten o'clock A. M.

Hearing resumed pursuant to adjournment.

The direct examination of Albert Jemison continued by Mr. Zevely.

Q. Mr. Jemison, the burden of your testimony in reference to the location of Emma Dildine. Will you please state what if any conversation you had with her prior to the time you carried her up to that location?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial, and as a matter that is not material evidence as against the defendant in this case.

A. Why, I believe I told her that she could sell this claim.

Q. Well, what was the conversation you had with her about the claims generally, Mr. Jemison?

A. Well, I don't know as there was any conversation

(Testimony of Albert Jemison.)

much about the claim, only I told her that we would witness for one another, and that I would be one of the witnesses for her.

Q. When was this conversation; how long prior to the time you went up to the location?

A. Well, it was sometime during that day.

Q. Was that the first time you had the conversation with her about taking up the claim?

A. Well, yes, only in the way that I told her I would locate her.

Q. When was that conversation?

A. Well, that was in town, when I was staying in town.

Q. Well, when was it, how long prior to the time the location was made?

A. A few days before she went up.

Q. What was that conversation?

A. Why I told her that I was locating claims for Mr. Cobban and Mr. Dinsmore.

Q. And had been taking up claims for them?

A. Yes, and had been taking up claims for them. Well, they paid them.

Q. You said that you could locate her, did you?

By Mr. BICKFORD.—Objected to as leading.

A. Yes, sir.

Q. And subsequently, as stated by you yesterday, you did locate her? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. Did you tell her how much she was to receive from Mr. Cobban?

By Mr. WALSH.—We object to that as being leading.

A. I don't know exactly whether I told her that or not. I may have talked about it in the house there.

Q. Generally?

A. Yes, that she could get a hundred dollars, together with her expenses.

Q. Now, do you know who was in the house at the time you made this statement that they could get a hundred dollars?

A. The family, Mrs. Dildine, Mr. Dildine and her brother.

Q. Well, had you made this statement in any other place about the community?

By Mr. BICKFORD.—We object to that for the reason it is immaterial and irrelevant and in no way relates to any of the issues raised in this case.

A. I don't know but what I did, but I can't say where at.

Q. Do you know Joshua C. Gilman?

A. I do, yes, sir.

Q. Did you locate Joshua C. Gilman?

A. Yes, sir.

Q. Do you remember the location you made for him?

A. Yes, sir.

Q. Please give it?

(Testimony of Albert Jemison.)

A. He is located on section 4 in township 14 north, range 15 west.

Q. Section 4, township 14, range 15 west. Do you remember about when you located him?

A. No, I couldn't say as to the date.

Q. Do you know about, approximately?

A. It was sometime within a week or two after I had located Mrs. Dildine.

Q. Now, state what if any conversation you had with Mr. Gilman at the time you located him?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial, and having no reference to the issues raised in this case.

A. Well, I don't remember that I had any conversation with Mr. Gilman, no, sir.

Q. Well, do you remember the circumstances of your taking him up to the location?

A. Well, he knew the circumstances.

Q. I say, did you take him to the location and show him the land? A. Yes, sir.

Q. Well, what do you mean when you say he knew the circumstances; just go on and explain that to the Court.

A. Do you mean where the land was, whether he knew that?

Q. Yes. What do you mean when you say he knew the circumstances and knew what the conditions were?

By Mr. BICKFORD.—We object to that for the reason it calls for a conclusion of the witness, based upon

(Testimony of Albert Jemison.)

the knowledge of another person, and it is therefore irrelevant and immaterial to the issues in this case.

A. I don't know whether he knew that or not; I suppose he did. He didn't ask me any more questions. He just simply asked me where the claim was.

By Mr. BICKFORD.—We now move to strike out the answer of the witness, because it doesn't appear to be the knowledge of the witness, but what someone else said concerning the matter.

Q. Well, what did you do with Mr. Gilman after you located him, if anything?

A. I believe I gave Mr. Gilman a note for Mr. Gilman to go either to Mr. Catlin or to the office.

Q. When you say the office, what do you mean, Cobban & Dinsmore's office? A. Yes, sir.

Q. You either gave him a note to Mr. Catlin or to Cobban and Dinsmore, did you? A. Yes, sir.

Q. You didn't go with him? A. No, sir.

Q. Didn't go with him in making his final proofs?

A. No, sir, I did not.

Q. And you don't know who went with him?

A. No, sir.

Q. Do you know Mr. George P. Jemison, of Victor, Montana? A. Yes, sir.

Q. Did you locate him? A. Yes, sir.

Q. When?

A. At the same time that I located Mr. Gilman.

Q. Where did you locate him, do you know?

(Testimony of Albert Jemison.)

A. On section 4, in the township and range upon which I located Mr. Gilman.

Q. Do you remember the circumstances of locating him, or any conversation that antedated that which took place prior to that time? A. I do not.

Q. Who is George P. Jemison?

A. He is a brother of mine.

Q. Is Joshua C. Gilman related to you?

A. Yes, sir.

Q. What relation is he to you?

A. He is my brother in law.

Q. He married your sister, did he?

A. Yes, sir.

Q. Do they live in this vicinity; do they live near you?

A. They live in the Bitterroot valley about three miles east of Victor.

Q. Were they at this camp that you have spoken of?

A. Yes, sir, that is at another camp.

Q. Well, you took George P. Jemison to his location, did you? A. Yes sir.

Q. What did you do with him after you had taken him there?

A. Well, we went on over the line; we were not there very long.

Q. Did you go with him down to Missoula?

A. No, sir.

Q. Either at the preliminary hearing or at the taking of the final proofs? A. No, sir.

(Testimony of Albert Jemison.)

Q. What did you do with him?

A. Why he had his numbers of the land with the rest of them, on a piece of paper.

A. Yes, sir.

Q. He was given a note also, was he?

A. Yes, sir.

Q. To whom?

A. Well, to either Cobban & Dinsmore's office or to Catlin.

Q. Catlin. Well, what if anything do you know of the financial standing of Joshua C. Gilman or George P. Jemison?

By Mr. WALSH.—We object to that for the reason it is immaterial.

A. They are ranchers in the Bitterroot valley.

Q. What is the age of George P. Jemison and Joshua C. Gilman, if you know; that is, about; I don't want to know exactly.

A. My brother is close to about twenty-seven or twenty-eight, and Mr. Gilman is close to fifty.

Q. Did your brother come to you of his own motion, or did you have any conversation with him about the making of this location prior to his going there?

A. No, sir, I don't think I did.

Q. You don't think you had any conversation with him?

A. No, sir.

Q. Well, how did it happen that he came to you about the making of the location?

(Testimony of Albert Jemison.)

By Mr. BICKFORD.—That is objected to as being immaterial.

A. Well, as I said once before here, when my mother wrote up there to them in that neighborhood, and those people came up there, they knew as much about it as I did.

Q. After getting this letter from your mother?

A. I suppose so; I don't know what she wrote to them.

Q. Do you know Thomas Roll, of Victor, Mr. Jemison?

A. Yes, sir.

Q. Where is it, or who is he, rather; is he a kinsman of yours? A. Yes, sir.

Q. What is the relationhip that he bears to you?

A. He is a brother-in-law.

Q. Where does he live? A. Near Victor.

Q. Did you locate him also? A. Yes, sir.

Q. Where did you locate him, Mr. Jemison?

A. On section 10, in township 14 north, range 16 west.

Q. Section 10, 14 and 16. Do you know about the time this location was made?

A. I don't know as I do. It was some time after—pretty close to the time I located Gilman and my brother.

Q. Well, did he come to you to be located, or did you go to him?

A. Well, he came up there with two or three others.

Q. Came to where you lived? A. Yes, sir.

Q. Well, what, if any, conversation did you have with him, Mr. Jemison?

(Testimony of Albert Jemison.)

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial, and upon the further ground that it is hearsay testimony.

A. I don't remember of having any conversation with him in relation to this matter, unless it was somewheres around the house. I went on and showed him the claim and told him how it was on the claim.

Q. How much timber, do you mean?

A. Yes, sir.

Q. Did you tell him what he could get for it?

A. Why—

By Mr. WALSH.—We object to that for the reason that it is leading.

A. I believe I did sometime around the house, yes, sir.

Q. Did you tell him to whom this land was to be sold?

By Mr. WALSH.—Objected to as leading.

Q. —Or did you tell him who had authorized you to say that he could get so much for it?

By Mr. WALSH.—Objected to as leading.

A. I don't just remember as I did.

Q. What is your best recollection about it?

A. I don't believe I can say that, either.

Q. After you located him what was the next step with reference to the location of his claim that you took?

A. Why, he went down and filed on it.

Q. Did you go with him?

A. That is, Mr. Roll, you mean?

(Testimony of Albert Jemison.)

Q. Yes. I mean what was your next step after you located the land; what did you do with him, if anything?

A. Why, he went down to Missoula; I didn't go down.

Q. Did you send him down?

A. I gave him a description of his land on a piece of paper.

Q. Gave him a note, did you? A. Yes, sir.

Q. To whom was that note addressed, if you remember?

By Mr. BICKFORD.—We object to that question, for the reason that it calls for testimony which is not the best evidence of what the paper contained, or of the facts which are sought to be introduced.

A. Either Mr. Cobban or Dinsmore or John B. Catlin.

Q. Mr. Dinsmore, Mr. Cobban or Mr. John B. Catlin, did you say?

A. Well, Cobban and Dinsmore or Mr. Catlin.

Q. Did you go with him when he went to make his final proof? A. No, sir.

Q. Didn't, eh?

A. Let me see—I would like to change that. I don't know for certain about that.

Q. You don't remember for certain as to whether you did or did not? A. No, sir, I do not.

Q. Under which contract was it, Mr. Jemison, that you located Joshua C. Gilman, your contract with Mr. Griswold, or your contract with Mr. Cobban?

(Testimony of Albert Jemison.)

By Mr. BICKFORD.—We object to that upon the ground that it is leading, and for the further reason it is irrelevant and immaterial.

A. At that time I believe I was working for Mr. Griswold.

Q. How is that, Mr. Jemison?

A. I was working for Mr. Griswold at that time, I think.

Q. How about Mr. George P. Jemison?

A. The same; I was working for Mr. Griswold.

Q. And how about Mr. Saleen? A. The same.

Q. And how about Mr. Abraham Jemison?

A. The same.

Q. And how about Matilda Eddy? A. The same.

Q. And how about Thomas Roll? A. The same.

Q. And how about Joshua C. Gilman?

A. The same.

Q. Do you know Abraham J. Jemison, of Victor, Montana? A. Yes, sir.

Q. What, if any, relation does he bear to you?

A. He is a brother of mine.

Q. Did you locate him? A. Yes, sir.

Q. Upon what tract of land did you locate him, if you remember?

A. I think that was on section 10, township 14 north, range 16 west.

Q. When did you locate him?

A. It was sometime during—just a few days before or

(Testimony of Albert Jemison.)

a few days after I located Mr. Roll; I don't remember which.

Q. Did you carry him to the description upon which you located him? A. Yes, sir.

Q. What steps were taken afterwards by you, if any?

A. Why, I went on with another fellow.

Q. But I mean after you had shown this claim to your brother, what other steps did you take toward having him perfect his rights or his entry?

A. I gave him the numbers of the land and the description of it on a piece of paper.

Q. Directed him to carry it to anyone?

By Mr. WALSH.—We object to that for the reason that the paper itself is the best evidence of the contents, and for the further reason that it is irrelevant and immaterial to the issues in this case.

A. Yes, it was either to Mr. John B. Catlin or Cobban & Dinsmore.

Q. Did you go with him at either time, either during his preliminary or his final proof?

A. I don't remember whether I did or did not.

Q. Do you know of your own knowledge whether or not he did make final proof there?

A. At the land office?

Q. Yes.

A. I am pretty sure he did.

Q. Did you have any conversation with him prior to

(Testimony of Albert Jemison.)

going to locate him or afterwards, with reference to this location?

A. No, I don't know as I did, only as to the description and the numbers of the land and about the timber that was on it.

Q. Any conversation with him relative to the disposition that was to be made of the land?

A. No, I don't think that I did.

Q. Where does he live, how near does he live to you?

A. Why he lived at Victor at that time; just before I located him he had been staying with us on a visit for a week or so.

Q. Had you in a general way told him about the conditions there with reference to the making of this location?

By Mr. WALSH.—We object to that as being leading, and as calling for testimony that is irrelevant and immaterial to any of the issues in this case.

A. I believe I did around the house somewheres.

Q. You knew that he knew about it?

A. Yes, sir.

Q. You knew that he knew the circumstances and what he could get for this location after he had perfected it?

By Mr. WALSH.—We object to that for the reason that it is leading, and on the further ground it has no relation to the issues in this case. A. Yes, sir.

Q. And what he was to receive, and from whom?

(Testimony of Albert Jemison.)

By Mr. WALSH.—We object to that for the reason that it is leading, and on the further ground it has no relation to the issues in this case.

A. Yes, sir.

Q. For whom did you locate him?

By Mr. WALSH.—We object to that as being leading.

Q. Under what contract, Mr. Griswold's contract or Mr. Cobban's contract?

By Mr. WALSH.—We object to that for the reason that it is leading, and on the further ground it has no relation to the issues in this case.

A. It was for Mr. Griswold, I believe.

Q. Do you know James W. Wheaton?

A. Yes, sir.

Q. Where does he live?

A. He makes his home in the Bitterroot valley.

Q. In the Bitterroot valley? A. Yes, sir.

Q. Is he any relation of yours? A. No, sir.

Q. Did you locate Mr. Wheaton, Mr. Jemison?

A. Yes, sir.

Q. Under what contract, under Mr. Griswold's contract or Mr. Cobban's?

By Mr. BICKFORD.—We object to that for the reason it is leading, and for the further reason it is irrelevant and immaterial to the issues in this case.

A. I believe it was under my contract with Mr. Griswold.

Q. Do you remember where you located him?

(Testimony of Albert Jemison.)

A. Yes, sir.

Q. Well, where was it?

A. On section 4, I think it was the southwest quarter of section 4, in township 14 north, range 16 west.

Q. When did you make this location for Mr. Wheaton, do you remember?

A. Well, as to the dates, I don't just remember.

A. About when was it?

A. It was some time just about a day or two before or a day or two after I located Mr. Roll.

Q. Did you take him to the location yourself?

A. Yes, sir, I think I did.

Q. Did you have any conversation with him before going, at any time?

By. Mr. BICKFORD.—We object to that for the reason it is irrelevant and immaterial, and further that it is hearsay.

A. I don't know as I did; it was understood that way.

By Mr. BRICKFORD.—We move to strike out that as a voluntary statement of the witness.

Q. What, if any steps did you take after the location, Mr. Jemison? A. What do you mean by that?

Q. I mean did you go with him to Missoula, or did you send him with a note to Cobban & Dinsmore or to Mr. Catlin?

A. I gave him a note, I believe, to either R. M. Cobban, or John B. Catlin; that is either to Cobban & Dinsmore's office or to Mr. Catlin.

(Testimony of Albert Jemison.)

Q. Now, you say you don't remember at any time of having had any conversation with Mr. Wheaton relative to the conditions under which he was to locate this land?

A. No, I don't know as I do.

Q. Does Mr. Wheaton live near you, in the same neighborhood?

A. No, he came from the Bitterroot valley.

Q. How long had he come to you before he located the land? A. Down there at our place?

Q. Down in the community there, yes.

A. Five or six days, I guess.

Q. Do you know Mary Eddy? She is the wife of Herbert Eddy, isn't she? A. Yes, sir.

Q. Do you know Daisy Chattin?

A. No, sir.

Q. You didn't locate her? A. No, sir.

Q. Did you locate John L. Deering?

A. No, sir.

Q. You didn't locate him? A. No, sir.

Q. Did you locate John Saleen, of Missoula?

A. No, sir, I don't believe I located him.

Q. Did you locate Charles C. Snyder?

A. No, sir.

Q. Did you locate Mathew P. Dunham?

A. No, sir.

Q. Frank P. Arcy? A. No, sir.

Q. Dan McGillis? A. No, sir.

Q. Elvira M. Hardy? A. Yes, sir.

Q. Did you locate Elvira M. Hardy?

(Testimony of Albert Jemison.)

A. The wife of John H. Hardy?

Q. She is the only Hardy on here, I think, Mr. Jemison? A. I located Mrs. Hardy, yes.

Q. She seems to be the wife of John H. Hardy?

A. Yes, sir.

Q. Do you remember where you located her?

A. On section 32, in township 13 north, range—township 15 north, range 15 west.

Q. Do you remember who went with you when you located her, or do you know when you located her?

A. No, I cannot say when I did locate her.

Q. Who was Mrs. Hardy, do you know, and where does she live, if you know?

A. I understood her to live in the east.

Q. Well, did you carry Mrs. Hardy to her location yourself?

A. No, sir. I had been on the land a few days before, and I sent a person to take them on to the land.

Q. Whom did you send? A. My father.

Q. Your father? A. Yes, sir.

Q. Who constituted that party, if any one, besides your father and Mrs. Hardy?

A. I cannot say, but I believe Mr. Cobban went with them.

Q. Mr. Cobban and anyone else, Mr. R. M. Cobban, do you mean?

A. Yes, sir, I don't think there was anyone else with them.

(Testimony of Albert Jemison.)

Q. Well, when did you locate—did you locate John H. Hardy? A. Yes, sir, I did.

Q. When did you locate him?

A. At the same time.

Q. Was he in the party? A. Yes, sir, he was.

Q. The party then was your father, Mr. Cobban, Mrs. Hardy and her husband, John H. Hardy, as you understand it?

A. Yes, sir, there was four of them, I think.

Q. Where did you locate Mr. John H. Hardy, if you remember, Mr. Jemison?

A. In the same section and range, I think.

Q. What township did you say that was?

A. Township 14, range 15.

Q. Township 14, range 15?

A. No, I recall that, township 15, range 15.

Q. 15, 15, that is right.

A. Yes, sir, I think that is right.

Q. What steps did you take with reference to Mrs. Hardy's location after your father showed her the land?

A. I didn't take any.

Q. Wasn't necessary to send them with a note?

By Mr. WALSH.—We will object to testimony from Mr. Zevely.

Q. How far from the place you started—the place where your father started with Mr. Cobban, was it to Mr. and Mrs. Hardy's location?

A. About four miles.

(Testimony of Albert Jemison.)

Q. Do you remember the time of day they started?

A. It was in the morning some time.

Q. What time did they get back?

A. Along that evening, I don't know what time they got back; they were back there that night.

Q. Had you been away from there during the day?

A. Yes, sir.

Q. Did you go with Mr. and Mrs. Hardy to Missoula?

A. No, sir, not at that time.

Q. Well, at any time?

A. No, sir—yes, I was there at the final proof.

Q. Did you go with them?

A. I was there as a witness when they proved up.

Q. Where did you see them when they made their final proof; that is, where in Missoula did you see them first?

A. I seen Mr. Hardy first on the street, I believe, and then I seen him in the land office.

Q. Who else was the witness besides you, Mr. Jemison? A. I don't remember.

Q. Well, at the land office, do you remember who was present when they were making the final proofs?

A. There were quite a number of persons there, but I couldn't just say.

Q. I mean of your party that was making final proof in this case?

By Mr. BICKFORD.—We will object to the question, if your Honor please, because the record itself is the best evidence.

A. I couldn't say who they all were.

(Testimony of Albert Jemison.)

Q. I don't mean all who were present in the office.

By Mr. BICKFORD.—No, all of the witnesses.

A. Mr. Hardy and Mrs. Hardy was there, I know, and I don't know who else was there, I cannot say.

Q. Was Mr. Catlin there?

By Mr. WALSH.— We object to that for the reason that it is leading, and for the further reason that the record itself is the best evidence of that fact.

A. Well, now, I seen him in there once that day, but I don't remember whether he was there just at the time we were making the final proof there or not.

Q. You don't know whether the other witness was Mr. Cobban, do you, that was with you?

A. No, Mr. Cobban was down there, I believe, but I can't say for sure.

Q. I just want your best recollection about it, Mr. Jemison. Do you think he was the other witness?

A. Mr. Cobban was advertised as one of the four witnesses, I believe.

Q. Did you see Mr. Hardy or Mrs. Hardy or both of them pay any money into the land office?

A. Not to my knowledge, I didn't.

Q. Did you see any money paid for them by anyone else? A. No, sir.

Q. After you had acted as witnesse for them, what then transpired, where did you go?

A. I went to my room, or wherever I was staying, and was fixing to go out the next day.

(Testimony of Albert Jemison.)

Q. You didn't go back to the office of Cobban & Dinsmore? A. No, sir.

Q. Do you know whether or not Mr. and Mrs. Cobban were relatives—Mr. and Mrs. Hardy were relatives of Mr. Cobban?

By Mr. BICKFORD.—We object to that as being immaterial and irrelevant to the issues in this case, and also for the reason that it is leading.

A. I believe I understood them to be a son in law of theirs.

Q. From whom did you understand that, Mr. Jemison?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial to the issues in this case.

A. Well, I believe that Mr. Hardy told me so.

Q. Mr. Hardy?

By Mr. WALSH.—We now move to strike that out because it is hearsay testimony.

Q. Do you know Effie M. Killburn, of Potomac?

A. I know her.

Q. Did you locate her?

A. No, sir, I didn't locate her.

Q. Do you know Arnold Mickels? A. Yes, sir.

Q. Did you locate him? A. No, sir.

Q. Do you know Clara Belle Mickels?

A. Yes, sir.

Q. Or William J. Eddy? A. Yes, sir.

Q. Well, did you locate him? A. Yes, sir.

Q. Where did you locate him?

(Testimony of Albert Jemison.)

By Mr. WALSH.—I suppose you located him in section 8.

By Mr. ZEVELY.—Yes, that is all right, you gave us an account of that.

A. Yes.

Q. Do you know Lavinia I. Gilman?

A. Yes, sir.

Q. Did you locate her? A. Yes, sir.

Q. If you remember, where did you locate her, Mr. Jemison? A. In section 8.

Q. What township and range is that in?

A. In township 14, range 15.

Q. Do you remember when and the circumstances under which you located her?

A. No, I don't remember just the dates.

Q. Approximately, about when?

A. It was during some time within a day or two of the time when I located Mr. Gilman, I think.

Q. Did you carry her onto the lands yourself, and take her onto the location yourself? A. Yes, sir.

Q. What happened after you showed her over the ground, what did you do then, what further steps did you take?

A. I gave her a description of the land, I believe, and the numbers, and—

Q. Did you give any directions to her as to what to do with them?

(Testimony of Albert Jemison.)

By Mr. BICKFORD.—We object to that as leading.

A. I told her to take it to Cobban & Dinsmore's office, and gave her a note to either Pond or Catlin, or some of those fellows there.

By Mr. BICKFORD.—Which did you say, Chattin or Catlin?

A. Catlin.

By The EXAMINER.—Is that your answer, Catlin?

A. Yes, sir.

By Mr. ZEVELY.—Q. Did you have any conversation with her as to what, if any, disposition she was to make of this land?

A. No, I don't know as I did when I gave her the paper.

Q. Well, did you at any time?

A. Yes, sir, she heard it from me when I was talking out there at the house.

Q. Well, what was it that she heard, the conversation, just give us that; just state to the best of your recollection what that conversation was out at your house, and what it was that she heard.

By Mr. BICKFORD.—We object to any conversation between the witness and any other person, when it is not shown that the defendant in this case was present, and we object to anything that was said between this witness and any other entryman or entrywoman, upon the ground that the same is irrelevant and immaterial to any of the issues in this case, and further upon the ground that it is

(Testimony of Albert Jemison.)

hearsay, and the defendant in this case is not bound thereby for that reason.

A. Well, I believe I told her at the house there once or twice, that they could take up their claims, and they could get money from Cobban & Dinsmore; and they could prove up on them, and then they could sell their claims to them.

Q. How much money did you tell them they could get?

By Mr. WALSH.—I object to that for the reason that it is immaterial and irrelevant.

Q. Go on and state the whole conversation; I want it all; I want to facilitate the matter; state all that you said to them.

A. I believe that is all I said to them at that time.

Q. Well, did you have any other conversation with then relative to this transaction?

A. I don't know as I could say as I did. They knew this theirselves.

By Mr. WALSH.—We move to strike that out for the reason that the same is not responsive to the question.

Q. Did you in your conversation tell them that they could sell this land to Cobban & Dinsmore as soon as they had made their final proof, and did you state that it was necessary for them to do that before they had made their final proof?

By Mr. BICKFORD.—We object to that for the reason it is irrelevant and immaterial to the issues in this case, and upon the further ground that it is hearsay.

(Testimony of Albert Jemison.)

A. No, I don't know as I did.

Q. No conversation with reference to this—with reference to what they were to receive, or anything of that sort?

A. Well, I might have told them.

By Mr. BICKFORD.—We object to what the witness might have told them.

A. (Witness Continuing.) That they could sell their claims to them.

Q. Did you tell them that they would have to give a deed for the land after they had made final proof?

A. I guess that would include a deed, if they sold the land.

Q. You told them that you knew they could sell their claims to whom?

By Mr. BICKFORD.—We object to that for the reason that it is leading.

A. Yes, I believe I did.

Q. Do you know Recy M. Jemison?

A. Yes, sir.

Q. What, if any, relation is she to you?

A. Sister in law to me.

Q. Did you locate her? A. Yes, sir, I did.

Q. Do you remember the location you selected for her?

A. I think I located her on section 6, in township 14, range 15.

Q. Section 6, township 14, range 15 west?

A. Yes, sir.

(Testimony of Albert Jemison.)

Q. Do you remember the circumstances under which you located her?

A. I remember taking her onto the land and giving her the description of the land and the numbers.

Q. You took her on yourself?

By Mr. BICKFORD.—Objected to as leading.

A. Yes, sir.

Q. And gave her a description and the number of the land, you say?

By Mr. BICKFORD.—Objected to as leading.

A. Yes, sir.

Q. Did you go with her to Missoula at the preliminary hearing? A. I don't believe I did.

Q. Do you know whether you went with her to Missoula at the final hearing?

A. I couldn't be positive about that.

Q. You don't know whether you did or not?

A. No, sir.

Q. Well, did you give her any directions as to what to do with this paper you gave her?

By Mr. BICKFORD.—We object because it is not shown that he has given her any paper.

Q. He says he did—did you just simply give this description to her by word of mouth, or did you write it on a piece of paper for her?

By Mr. BICKFORD.—Objected to for the reason it is irrelevant and immaterial.

A. I put it on a paper.

(Testimony of Albert Jemison.)

Q. Any direction to her as to what to do with that paper, Mr. Jemison?

By Mr. BICKFORD.—We object to the question for the reason that the paper itself is the best evidence as to the contents thereof.

Q. I just asked you, Mr. Jemison, whether you gave her a paper, and if so, what was on it?

A. No, sir, I don't believe I did give her any directions. I told her to take the paper to Cobban & Dinsmore's office.

Q. Well, that is what I mean by directions; told her to take the paper to Cobban & Dinsmore's office, did you say? A. Yes, sir.

Q. You don't remember whether you went with her at either time or not, that is, at the time of filing the application, and at the time of taking the final proof?

A. Well, I was advertised, I think, on her claim, as one of the witnesses.

By Mr. BICKFORD.—We move to strike that out because the advertisement itself is the best evidence.

Q. Do you know James Mise? A. Yes, sir.

Q. Did you locate him, Mr. Jemison?

A. Yes, sir.

Q. Where did you locate him, if you remember?

A. I cannot say; I think it was on section 34.

Q. Think it is in section 34. What township and range is it in?

A. I think it is in township 15 north, range 16 west.

(Testimony of Albert Jemison.)

Q. Thirty-four, 15 and 16. Did you take him to the location yourself?

A. Yes, sir, I think I did.

Q. Where does James Mise live?

A. Near Victor.

Q. That is in the Clearwater country, is it?

A. In the Bitterroot valley.

Q. How far is that from you?

A. It is about eighty-five miles.

Q. Just state the circumstances of your locating, Mr. Mise, just what occurred from the beginning of your transactions with Mr. Mise, down to its conclusion?

A. I took Mr. Mise onto the land and told him how much I thought there was; that is, how much timber there was on it, and gave him the descriptions upon a piece of paper, and told him to take them to Cobban & Dinsmore's office and file on the land.

By Mr. BICKFORD.—We move to strike out all of the last answer of the witness, upon the ground that it is irrelevant and immaterial, and is a conversation between the witness and some one else not a party to this action, nor was such party present when the same was alleged to have been had.

Q. How did Mr. Mise, if you know, happen to come to you, Mr. Jemison, to be located?

A. He came up with these parties that we have just been talking about.

Q. He was one of these parties? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. Is he related to you in any way?

A. No, sir.

Q. Do you know Laura Rol? A. Yes, sir.

Q. Did you locate her? A. Yes, sir.

Q. What, if any, relation is she to you?

A. She is a sister of mine.

Q. She is your sister? A. Yes, sir.

Q. Do you remember the location upon which you placed her? A. On section 26, I think.

Q. What township and range, if you know?

A. The same township and range as Mise is on.

Q. Fifteen and sixteen—section 26, township 15, range 16 west? A. Yes, sir.

Q. Did you take her on the land yourself?

A. Yes, sir.

Q. Do you remember when you took her?

A. No, I do not.

Q. Well, just state the circumstances—what the conversation was, if any, and what you did after she was located?

A. We went onto the land and went over it, and I gave her a description and the number of the land on a piece of paper, and told her to take it down there and file it on the land.

Q. Told her to take it down where, to whom?

A. Told her to take it to Cobban & Dinsmore's office.

By Mr. BICKFORD.—We move to strike out the question and answer of the witness, for the reason that the same is immaterial and irrelevant.

(Testimony of Albert Jemison.)

Q. Did you go with her there to the preliminary or final proof at the time that was given?

A. I think I was a witness when they proved up.

Q. That was for Laura Roll. How old a woman is Laura Roll, Mr. Jemison, what is her age?

A. She is a sister of mine, but I don't know.

Q. Well, about?

A. About thirty years or thirty-two years, I should say.

Q. Do you remember who the other witness was?

A. No, sir, I do not.

Q. For whom did you locate her, under what contract, Mr. Griswold's contract or Mr. Cobban's?

By Mr. BICKFORD.—We object to that because it is irrelevant and immaterial to any of the issues raised by the pleadings in this case.

A. I think it was for Mr. Griswold.

Q. How about James Mise, for whom did you locate him?

A. I don't—I won't be certain for which one I did locate him.

Q. Did you ever have any conversation with Laura Roll about these timber and stone entries, prior to the time you carried her on to this location?

By Mr. BICKFORD.—We object to that for the reason it is irrelevant and immaterial to any of the issues raised by the pleadings in this cause.

A. No, sir, I don't believe I did.

(Testimony of Albert Jemison.)

Q. Where does she live?

A. She lives near Victor.

Q. How far is that from where you live?

A. Eighty-five miles.

Q. She lives in the Bitterroot valley?

A. Yes, sir.

Q. She was one of those to whom your mother wrote by letter?

By Mr. WALSH.—We object to that as being leading, and for the further reason that the letter is the best evidence.

A. I believe so.

By Mr. WALSH.—We move to strike out the answer of the witness, for the reason that the witness shows that he does not know.

Q. Do you know Charles H. Jemison?

A. Yes, sir.

Q. Did you locate him? A. Yes, sir.

Q. What, if any, relation is he to you?

A. He is a brother.

Q. Upon what land did you locate Charles H. Jemison, Mr. Jemison? A. On 28.

Q. Section 28, you mean? A. Yes, sir.

Q. In what township and range is that?

A. Township fifteen, range 16, I believe.

Q. Township 15, range 16? About when was this, do you know?

(Testimony of Albert Jemison.)

A. That was some time, a few days after I had located —I just couldn't say when.

Q. Did you go with him to the land yourself?

A. Yes, sir.

Q. State what, if any conversation you had with him then or prior thereto, relative to his making this location?

By Mr. BICKFORD.—We object to this as being hearsay.

A. I didn't have no conversation with him, about filing on the land, or the numbers at all.

Q. Did you before you went to the land at any time?

A. We may have had conversations, but it wasn't about his claim or anything of that kind, that I remember of.

Q. How old a man is he about?

A. About twenty-seven.

Q. Well, after you located him what was the next step that you took with him, if any?

A. I didn't take any step; that was on some other land, and when he got ready he went down to Missoula and filed on the land.

Q. You didn't give him any note, did you?

A. No, I don't think I did.

Q. For whom did you locate him, Mr. Cobban or Mr. Griswold?

By Mr. BICKFORD.—That is objected to as being leading, and upon the further ground that it is irrelevant and immaterial.

A. I cannot say; I think, though, for Mr. Griswold.

(Testimony of Albert Jemison.)

By Mr. BICKFORD.—We now move to strike out the answer of the witness, for the reason that the witness does not state his knowledge concerning the matter, but simply states his opinion.

Q. Mr. Griswold? A. Yes, sir.

Q. Your best recollection of it is that it was Mr. Griswold?

By Mr. BICKFORD.—We object to the question as being leading.

(Counsel hands witness memorandum.)

A. Yes, sir, he is on the paper—

Q. I will ask you to refresh your memory from this paper, and see for whom you located Charles H. Jemison?

By Mr. BICKFORD.—We object to that because the witness has already stated that he doesn't know. He has testified to that already once.

By Mr. ZEVELY.—Well, I don't remember it, Mr. Bickford, I am sorry to say.

A. It isn't written here as Charles H. Jemison.

Q. Well, can you, by refreshing your memory, say whether—from this paper, can you tell for whom you located Charles H. Jemison? A. Yes, sir.

Q. Well, who was it? A. Mr. Griswold.

Q. Calvin Yarger. Do you know Calvin Yarger?

A. Yes, sir.

Q. Did you locate him? A. Yes, sir.

Q. Do you remember for whom you located him?

(Testimony of Albert Jemison.)

By Mr. BICKFORD.—Objected to as being irrelevant and immaterial to any of the issues in this case.

A. I think it was for Mr. Griswold.

Q. You think it was for Mr. Griswold. Upon what location did you place him?

A. I cannot remember.

Q. Don't remember the location of Calvin Yarger. Do you remember when you located him?

A. Oh, about the same time that I located the Eddys.

Q. Did you go with him on the land yourself?

A. Yes, sir.

Q. Is he any relation to you? A. No, sir.

Q. What, if any, conversation did you have with him?

By Mr. BICKFORD.—We object to any conversation had between the witness and Calvin Yarger, for the reason that it is irrelevant and immaterial to the issues in this case.

A. I gave him descriptions of the land on a piece of paper, and the numbers, and told him when he went to Missoula to take it to Cobban & Dinsmore's office and file on that land.

Q. Did you have any conversation with him as to the sale or transfer of those claims?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial to the issues in this case, and upon the further ground that it is hearsay.

A. I believe he asked me how much he would sell it for, and if he could sell the claim, and how much he could get

(Testimony of Albert Jemison.)

out of it, and I told him a hundred dollars clear of his expenses.

Q. A hundred dollars clear of his expenses?

A. Yes, sir.

Q. Were you with him there at his preliminary or final proof?

A. I couldn't say, I believe I was a witness; I couldn't say for sure whether I was a witness or not.

Q. You don't remember distinctly enough of testifying? A. No, sir.

Q. That is, you don't remember distinctly enough to testify whether you went with him to the land office and to Cobban & Dinsmore's office?

A. Well, I didn't go down with Mr. Yarger the first trip.

Q. No, but I say the final trip.

A. No, sir, I just couldn't say.

Q. Do you know Zora Jemison? A. Yes, sir.

Q. Did you locate her? A. Yes, sir.

Q. Is that a man or a woman? A. A woman.

Q. For whom did you locate her, for Mr. Griswold or for Mr. Cobban?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial to any of the matters in issue in this case.

A. I think for Mr. Griswold.

Q. Do you remember what lands you located her on?

A. She is on section 34, township 15 north, range 16 west.

(Testimony of Albert Jemison.)

Q. 34—15, 16. Does she bear any relation to you?

A. Yes, she is a sister in law.

Q. How old a woman is she, about?

A. I couldn't say for sure, about thirty-five, I suppose.

Q. Did she live in the Bitterroot valley?

A. Yes, sir, at that time.

Q. Did you carry her on to this land, Mr. Jemison, yourself? A. Yes, sir.

Q. Well, state what if any conversation, or what if any directions you gave to her with reference to the final proofs on this claim?

By Mr. BICKFORD.—We object to that as being immaterial and irrelevant.

A. I gave her a piece of paper with the numbers and descriptions of the land, and I told her to take it to Mr. Catlin, I believe.

Q. Told her to take it to Mr. Catlin. Did you tell her where she would find Mr. Catlin, probably?

By Mr. BICKFORD.—Well, we object to that as being leading, and upon the further ground that it is irrelevant and immaterial to any of the issues in this case.

A. No.

Q. Did you have any conversation with her about the sale or disposition of her claim? A. No, sir.

Q. Did you ever at any time that you remember of, have any conversation with her with reference to the sale or disposition of her claim?

A. No, I don't remember of it at any time.

(Testimony of Albert Jemison.)

Q. How long was she up in that neighborhood?

A. About a week before we went on to the claim.

Q. Where was she coming, to visit with relatives?

By Mr. BICKFORD.—We object to that as being leading.

A. She was at my father and mother's home.

Q. Do you know Jennie Mise, of Rosemont, Montana?

A. Yes, I know Jennie Mise.

Q. Did you locate her? A. Yes, sir.

Q. Where did you locate her, if you remember?

A. On the same section.

Q. Is she any relation to you? A. No, sir.

Q. Where does she live?

A. She lives near Stevensville, in the Bitterroot valley.

Q. Did you carry her onto the land?

A. Yes, sir.

Q. State what, if any, conversation you had with her, relative to filing on the land?

By Mr. BICKFORD.—We object to the question for the reason it is incompetent, irrelevant and immaterial to any of the issues in this case.

A. I gave her a piece of paper with the descriptions on it and the numbers of the land. Some of those papers were written to John B. Catlin. They were not all sent to R. M. Cobban, or to Cobban & Dinsmore's office. I don't know just how many there were of them, I just wrote them out whichever way I felt like it.

(Testimony of Albert Jemison.)

Q. It was the same thing whether you sent it to Mr. Catlin or to Cobban & Dinsmore's office?

By Mr. BICKFORD.—We object to that for the reason it is incompetent, irrelevant and immaterial, and leading, and calling for an opinion of the witness.

A. To make proof and file on the land.

Q. What were your instructions, if any, as to whom these communications should be addressed?

By Mr. BICKFORD.—Objected to as being irrelevant and immaterial, and it doesn't appear to whom these instructions were given, and it is not stated that if any instructions were given, they were not given in the presence of the defendant in this case, and therefore are not binding upon him.

A. Mr. Griswold told me to send them to—well, I believe either parties.

By Mr. WALSH.—We move to strike that out—the answer of the witness out, for the reason that the instructions alleged to have been given were not given by the defendant nor by any one connected with him, nor in the presence or hearing of the defendant.

Q. When you say either party, Mr. Jemison, whom do you mean by that? You say Mr. Griswold instructed you to give them to either party.

A. Cobban & Dinsmore or Catlin.

Q. Cobban & Dinsmore or J. B. Catlin?

A. Yes, sir.

Q. Do you know John G. Hendryx?

(Testimony of Albert Jemison.)

A. Yes, sir.

Q. Did you locate him? A. Yes, sir.

Q. Can you state the tract upon which you located him?

A. Yes, sir, I think it was in section 32, township 14 north, range 15 west.

Q. Township 32—section 32, township 14, range 15.

A. Yes, sir.

Q. Is Mr. Hendryx in any way related to you?

A. No, sir.

Q. Do you know for whom you located him?

By Mr. BICKFORD.—We object to that as being immaterial and irrelevant to any of the issues raised in this case.

A. I took Mr. Hendryx on the land, but I didn't give him any papers; I think he got his papers from Mr. Griswold. I don't know what he did get, though.

Q. What?

A. He went to Mr. Griswold, Mr. Hendryx did, I am not sure.

Q. You say you took him onto the land?

A. Yes, sir.

Q. What further did you do after taking him onto the land?

A. I believe we went down to Missoula with him.

Q. At the time of taking his preliminary proof?

A. Yes, sir.

Q. What did you do with him—after you got to Missoula with Mr. Hendryx? Just state what you did with Mr. Hendryx after you got to Missoula?

(Testimony of Albert Jemison.)

A. I believe we ran across Mr. Griswold, and Mr. Griswold attended to the rest of the business with him. I don't know a thing about that.

Q. You then turned Mr. Hendryx over to Mr. Griswold? A. Yes, sir.

Q. Did you have any conversation with Mr. Hendryx there while you were locating him—or on your way to Missoula, or at Missoula, with reference to this claim that he was taking up?

By Mr. BICKFORD.—We object to that as being leading and upon the further ground it is irrelevant and immaterial, and hearsay evidence.

A. I remember him making an agreement that he was to pay him so much for the location.

Q. How much was he to pay you for that location?

By Mr. BICKFORD.—We object to the question for the reason it is irrelevant and immaterial to any of the issues in this case.

A. Ten dollars.

Q. When was he to pay you?

A. When he got the money.

Q. When he got what money?

A. When he sold his land.

Q. Did it develop in that conversation as to whom he was to sell the land?

By Mr. BICKFORD.—We object to the question for the reason it is immaterial and irrelevant, and upon the further ground that it calls for hearsay evidence.

(Testimony of Albert Jemison.)

A. No, I don't know as there was.

Q. Do you know Martha E. Wright?

A. No, sir.

Q. Did you locate her on any land?

A. No, I don't know as I did.

Q. Do you know Lizzie T. Catlin? A. No, sir.

Q. Did you locate her? A. No, sir.

Q. Do you know Oscar Muckinheim?

A. Yes, sir.

Q. Did you locate him?

A. No, sir, I did not.

Q. Did you know Stephen Tepper?

A. Yes, sir.

Q. Did you locate him? A. No, sir.

Q. Do you know John B. Reeve?

A. Yes, sir.

Q. Did you locate him? A. Yes, sir.

Q. And where did you locate him?

A. I think it was in 32, in township 15 north, range 16 west—22—I wouldn't say which; I don't remember.

Q. You don't remember then where you did locate him?

A. No, sir.

Q. Is Mr. Reeve related to you in any way?

A. No, sir.

Q. Well, did you carry him onto the land, onto this location?

By Mr. BICKFORD.—We object to that as being leading.

(Testimony of Albert Jemison.)

A. Yes, sir.

Q. State the circumstances and any conversation that may have occurred between you and Mr. Reeve, touching his location of this land?

By Mr. BICKFORD.—We object to the witness stating any conversation had between John B. Reeve and the witness, for the reason that it is irrelevant and immaterial to any of the issues in this case.

A. No, I don't remember of having any conversation with him. Mr. Griswold sent Mr. Reeve to me, and they were all together, and he told me to take Mr. Reeve up and show him the claim.

By Mr. WALSH.—We move to strike out the answer of the witness because the same is not responsive to the question, and for the further reason that it is irrelevant and immaterial and hearsay testimony as to this defendant.

Q. Well, what did you do after you showed him the claim, and went with him to it.

A. I don't—he went down to Missoula and I went on to my work.

Q. You didn't give him any directions at all, did you?

By Mr. WALSH.—We object to that for the reason that it is leading.

A. No, sir, I don't believe I did.

Q. Do you know Robert Starkie, of Missoula?

A. I take that back, I may have given him the numbers of the land.

(Testimony of Albert Jemison.)

Q. You think you gave Mr. Reeve the numbers of the land? A. Yes, sir.

Q. But no instructions? A. No, sir.

Q. Now, I will repeat the question. Do you know Robert Starkie? A. Yes, sir.

Q. Did you locate him?

A. Yes, sir, the same day.

Q. Where did you locate him, if you remember?

A. On 22, I believe.

Q. What township and range?

A. Township 15, range 16, I believe.

Q. Section 22, township 15 north, range 16 west?

A. Yes, sir.

Q. Did you carry Mr. Starkie to the land yourself and show it to him? A. Yes, sir.

Q. What, if any, conversation did you have with him about this location, Mr. Jemison?

By Mr. BICKFORD.—That is objected to as being hearsay evidence, and upon the further ground that it is irrelevant and immaterial.

A. He came up with Mr. Reeve, and I don't know that I had any conversation except as to the timber that was on it, and in that way. I am not certain but I think I gave the two of them the numbers of the land.

Q. On paper?

A. Yes, or took them up in their buggy, I don't remember which.

(Testimony of Albert Jemison.)

Q. Were he and Mr. Reeve together when Mr. Griswold sent you with them to their location?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial.

A. You mean Mr. Starkie and Mr. Reeve together?

Q. Mr. Starkie and Mr. Reeve, yes.

A. I don't believe they were at that time. I think Mr. Reeve got Mr. Starkey and fetched him along with him.

Q. So that you took Mr. Reeve and Mr. Starkie on there and showed them this location and gave them a description of the land.

By Mr. BICKFORD.—Objected to as leading, and that it is irrelevant and immaterial.

A. Yes, sir.

Q. Do you know Albert Ehle, of Potomac?

A. Yes, sir.

Q. Did you locate him? A. Yes, sir.

Q. Where, if you remember, did you locate Mr. Ehle, Mr. Jemison?

A. Well, I cannot say for sure, but I think that he is in that section, 22, where Mr. Reeve is.

Q. You think that, do you? A. Yes, sir.

Q. When did you locate him, if you remember?

A. Within a few days after I located Mr. Reeve and Mr. Starkie.

Q. For whom did you locate him?

(Testimony of Albert Jemison.)

By Mr. BICKFORD.—Objected to as being irrelevant and immaterial.

A. I cannot say very positively as to that.

Q. Well, just state the circumstances, Mr. Jemison of your location of Mr. Ehle, and carrying him on the land, and what occurred there, if anything.

A. He went onto the land with me and I gave him the numbers and description of the land.

Q. In writing?

A. Yes, sir, on a piece of paper and told him to—

By Mr. BICKFORD.—Well, we object to what he told the entryman as being hearsay.

Q. Go ahead, what did you tell him?

A. To take it to Mr. Catlin or to Cobban & Dinsmore.

Q. Did you go down with him there when he made his declamatory statement?

A. I don't rememmber whether I did or not.

Q. Well, did you go down with him when he made his final proof?

A. I don't remember whether I did or not.

Q. Is he related to you in any way?

A. No, sir.

Q. Where does he live?

A. At that time he lived near Missoula.

Q. What was his business, do you know?

A. A laborer, I suppose.

Q. Did you have any further conversation with Mr. Ehle, Mr. Jemison?

(Testimony of Albert Jemison.)

A. I believe I did, in regard to something about what he was to pay me, how much he was to get.

By Mr. BICKFORD.—We move to strike that out, if your Honor please, for the reason that it is hearsay testimony, and upon the further ground that it is immaterial.

By Mr. ZEVELY.—Do you mean to strike that out before he gets it in, or do you mean to strike it out after he gets it in?

By Mr. BICKFORD.—I want to strike out the answer of the witness as far as it is presented to the Court and taken down by the stenographer.

Q. Just state what that conversation was, Mr. Jemison?

A. Well, I told him when he sold his claim that he could get a hundred dollars clear of all expenses, and that he could pay me then at any time after that, what we agreed upon.

Q. You don't remember whether you were a witness for him or not?

A. I cannot say, I was a witness for a good many.

Q. Well, do you remember whether you were down at Missoula when Albert Ehle made this final proof?

A. Yes, sir, I believe I was.

Q. Were you with him at the land office, Mr. Jemison?

A. I believe I was—well, sir, I really don't remember.

Q. Don't remember anything about the circumstances at that time, if you were there or not?

(Testimony of Albert Jemison.)

A. No, sir, I don't.

Q. Do you know Eliza A. Reeve? A. Yes, sir.

Q. Did you locate her? A. Yes, sir.

Q. Where did you locate her, Mr. Jemison?

A. Well, sir, I don't know for certain; I think her claim is in section 22. Those people took the whole section.

Q. Do you know whether it was section 22 or 32?

A. I think it is, and I think it is in township 15, range 16 west.

Q. That is, you think it is in township 15, range 16?

A. I cannot say for sure, but I think so.

Q. You don't remember for sure which of these sections it is in? A. No, sir.

Q. Did you take Mrs—who is Eliza A. Reeve, is she a married or a single woman?

A. She is the wife of John B. Reeve.

Q. Is she any relation to you? A. No, sir.

Q. How old a woman is she?

A. I should judge fifty years old.

Q. Did you take her on the location?

A. Yes, sir.

Q. Well, state what conversation you had with her and what transpired?

A. Well, I gave her the descriptions and the numbers of the land and told her—

Q. In writing? A. Yes, sir.

Q. What did you tell her to do with it?

(Testimony of Albert Jemison.)

A. I won't say that now for certain. There was some of these parties that I went down with—these whole parties, and of course when I went down with them I didn't give them any description.

Q. You don't know whether you went down with her or not.

A. I had the descriptions and gave them to them myself.

Q. Do you know whether you went with her or not?

A. No, I took her on the land, though.

Q. Did you go with her to Missoula?

A. No, sir.

Q. Were you there when she made her proof?

A. I think I was.

Q. If you can remember, state what happened after you got to Missoula, with reference to this claim.

A. I think at that time I had to go right back and I went in—I wouldn't say this for certain—I don't know whether I was there or not, but when one of those parties gave in their testimony I gave in my testimony as a witness, and had to go right back.

Q. You gave in your testimony at the land office, do you mean?

A. Yes, sir, and I wasn't in town very long.

Q. But I mean when you located her in the beginning?

A. I cannot say as to that.

Q. When you first took her up there, did you give her a note then or did you send in a description?

A. I cannot say about that.

(Testimony of Albert Jemison.)

Q. Neither one or the other?

A. I know she filed on the land.

Q. And I understood you to say that you either sent that along with her, the description to Cobban and Dinsmore's office or carried it in yourself.

By Mr. BICKFORD.—Objected to as being leading.

A. Yes, sir.

Q. Where does Mr. Reeve live?

A. At that time he lived near by Missoula.

Q. You say he isn't related to you in any way?

A. No, sir, he is not.

Q. You don't remember whether you were a witness for her finally or not, at her final proof.

A. I do not.

Q. Do you know Mary A. Starkie?

A. Yes, sir.

Q. Did you locate her? A. Yes, sir.

Q. Do you remember where you located her?

A. No, sir. I don't just remember.

Q. Do you know the land?

A. Yes, sir, I know the land.

Q. Is it in township -section 32, township 15 north, of range 16 west?

By Mr. BICKFORD.—Objected to as leading.

A. I believe it is.

Q. Did you take her on to the land, Mr. Jemison?

A. Yes, sir.

Q. Is she a married or a maiden lady?

(Testimony of Albert Jemison.)

A. That is, Mrs. Starkie?

Q. Mary A. Starkie.

A. Yes, sir, she is married.

Q. Is she related to you in any way?

A. No, sir.

Q. About what age is she, if you know, Mr. Jemison?

A. I should judge her to be about twenty-four or twenty-five, I couldn't say.

Q. Did you have any conversation with her relative to the disposition she was to make of the land when you took her onto it?

A. No, I don't know as I did on the land.

Q. At any time, did you?

A. Yes, I believed I talked to all of them in camp once.

Q. Before these locations?

A. Well, it was when we were camping in the mountains.

Q. What did you say to them?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial, and further upon the ground that it is hearsay testimony.

A. Well, they wanted me to locate them, and I told them I would put them on the claims and they could file on them and prove up, and they could sell their claims to R. M. Cobban or Cobban & Dinsmore, if they wanted to take a hundred dollars and all expenses.

Q. After you located Mrs. Starkie on this claim, what

(Testimony of Albert Jenison.)

further instructions or directions did you give her, if any, or did you go with her to Missoula yourself?

By Mr. BICKFORD.—We object to that for the reason that it is leading.

A. Well, there was five or six in that gang, or maybe seven or eight, I don't just remember how many, but I don't think I gave them any. I don't know for sure, I think I was in town at the time they went to town.

Q. To make their filing, do you mean?

A. Yes, sir.

Q. And in that event would you have given the papers into Cobban & Dinsmore's office yourself?

By Mr. WALSH.—We object to that as being leading, and upon the further ground that it is calling for a conclusion from the witness and not for a statement of fact.

Q. I gave them to Mr. Catlin.

Q. Do you remember how you located her, who you located her for? A. I couldn't say.

Q. Could you state whether you located her for Mr. Griswold or for Mr. Cobban?

A. No, sir, I couldn't say that.

Q. Do you know John Murtaugh?

A. Yes, sir.

Q. Did you locate him? A. Yes, sir, I did.

Q. Do you remember upon what description you did locate him?

A. I think I located him in section 26 of the same township.

(Testimony of Albert Jemison.)

Q. Township 15 north, range 16 west?

A. Yes, sir.

Q. Did you take Mr. Murtaugh onto the land yourself?

A. No, sir, he had been on the land, he said, himself.

Q. He said he had been on the land?

A. He would go on the land, that is the way my understanding was, and I didn't go on the land with him.

Q. You didn't go on the land with him?

A. No, sir. I didn't go on the land with him, I had been on the land before.

Q. You had been on the land before?

A. Yes, sir.

Q. Did anybody go with him, if you know?

A. I couldn't say.

Q. Well, did you have any conversation with him?

A. I told—

By Mr. BICKFORD.—Well, we object to what the witness told as being irrelevant and immaterial and hearsay.

A. —I told Mr. Murtaugh that he could have that claim and prove up on it if he wanted to, and that he would get the same as the rest.

Q. Is that the language you used to him, or did you tell him the amount?

A. I believe that is just what I said to him.

Q. Did you tell him where he could get it from?

A. No, I don't think I did.

(Testimony of Albert Jemison.)

Q. Did he come back to you after he went onto this location? A. Come back to me?

Q. Yes, did he come back to you after he had been on this location and before he went to Missoula?

A. No.

Q. Did you give him any directions about what to do about the land?

A. No, I went to Missoula in a day or two, and he was in Missoula when I got there.

Q. What did you then do?

A. I believe I gave the numbers in to Mr. Catlin, when we went to the office. I don't remember whether he went with me or whether he was there or not.

Q. To the land office, do you mean or to Cobban & Dinsmore's office?

A. Cobban & Dinsmore's office.

Q. Did you act as a witness for him?

A. I couldn't say, I think I did; I was advertised as a witness.

Q. You don't know, then, you cannot state positively whether you were there at the final proof or not?

A. Yes, sir, I was in town when he made the final proof.

Q. Were you in the office when he made the final proof? A. In the office?

Q. In the United States land office?

A. No, I don't remember that.

Q. You don't know then whether you appeared then and cannot state from your memory whether you appeared here as his witness at his final proof?

(Testimony of Albert Jemison.)

A. I think I was a witness.

Q. You think you were a witness?

A. Yes, for Murtaugh.

Q. Did you see Murtaugh pay any money into the land office?

A. Not of my own knowledge I didn't see Murtaugh.

Q. Did you go with Murtaugh anywhere—did you go with Murtaugh to the land office?

A. No, sir.

Q. You didn't? A. No, sir.

Q. Do you know Harriet Bryan, of Missoula?

A. No—yes, sir, I do.

Q. Did you locate her? A. No, sir.

Q. You didn't you say? A. No, sir.

Q. Do you know Eveline Jemison?

A. Yes, sir.

Q. Did we have Eveline Jemison yesterday?

A. Yes, sir, I think we did.

Q. Do you know Nellie J. Ehle, of Potomac?

A. Yes, sir.

Q. Did you locate her?

A. I did once, but she didn't prove up on the location—that—

Q. Well, did you locate her on the southwest quarter of section 30, township 15 north, range 16 west?

A. Yes, sir, I believe I did.

Q. Did you take her on to the land yourself?

A. No, sir, her husband took her on to the land.

(Testimony of Albert Jemison.)

Q. Well, state the circumstances with reference to the location of Mrs. Ehle, is she related to you in any way?

A. No, sir.

Q. Well, just state the circumstances of her husband taking her on to the location and how it came about?

A. I couldn't say, I wasn't with them.

Q. Well, how did it happen that you didn't go with her, you say you located her?

A. Well, me and two of the other parties went up on the land and Mr. Ehle and me had been on the land the day before, and I went to show these other fellows their land.

Q. Well, what else occurred?

A. Well, I told them to go up there and take her on to the land.

Q. Then your testimony with reference to Mr. Ehle applies to her, does it?

A. Yes, I think that is the same time I located them.

Q. Do you know Charles Cloutier of Clearwater?

A. Yes, sir, I know him.

Q. Did you locate him? A. No, sir.

Q. Did you locate John Gilles? A. No, sir.

Q. Did you locate M. J. Doney?

A. No, sir.

Q. Thomas Pelkey? A. No, sir.

Q. Did you locate B. Frank Chattin?

A. No, sir.

Q. Did you locate Eliza W. Hoyt, of Ovando?

(Testimony of Albert Jemison.)

A. Yes, of Ovando?

Q. Yes, sir. A. No, sir.

Q. Did you locate Charlotte S. Hoyt, of Ovando?

A. No, sir.

Q. Guy W. Muchmore, of Ovando? A. No, sir.

Q. Albert F. Muchmore, did you locate him?

A. No, sir.

Q. Oliver E. Muchmore, did you locate him?

A. No, sir.

Q. Elizabeth A. Muchmore, of Ovanda, did you locate her? A. No, sir.

Q. Did you locate Alfred Stewart, of Ovando?

A. No, sir.

Q. Did you locate Nels. O. Opsata, of Ovando?

A. No, sir.

Q. John B. Catlin, of Missoula? A. No, sir.

Q. Do you know who did locate him, Mr. Jemison?

A. No, sir.

Q. Did you locate Belle Bryan-Gilles, formerly Belle Bryan? A. No, sir.

Q. Did you locate Leonard Barrott, of Missoula?

A. No.

Q. Did you say no, I didn't catch your answer?

A. I didn't locate them; there was two or three claims that they located, but I didn't locate them.

Q. Did you locate Edgar Lehman?

A. No, sir.

Q. Did you locate Lelia T. Bryan?

(Testimony of Albert Jemison.)

A. No, sir.

Q. Did you locate Mary Hawthorne, of Lincoln, Illinois? A. No, sir.

Q. Harriet Watson? A. No, sir.

Q. Marion B. Watson? A. No, sir.

Q. Charles H. Moss, of Missoula?

A. I wouldn't say about that, I don't think that I located him, though.

Q. Katie Watson? A. No, sir.

Q. Did you locate Edward Dodd, Mr. Jemison?

A. No, sir.

Q. Did you locate Cora Dodd, of Bonner?

A. No, sir.

Q. Did you locate Dick E. Watson, of Clearwater?

A. No, sir.

Q. Charles B. Sperry? A. No, sir.

Q. Thomas H. McConnell? A. No, sir.

Q. Hiram Dodd, of Bonner? A. No, sir.

Q. Harrison Dodd? A. No, sir.

Q. Matilda Dodd? A. No, sir.

Q. Lizzie Dodd? A. No, sir.

Q. Vital Cyr—of Frenchtown? A. No, sir.

Q. Levi B. Cyr, of Missoula? A. No, sir.

Q. Nellie J. Ehle. We have had her, you located her, didn't you? A. Yes, sir, I think I did.

By Mr. ZEVELY.—It seems that the proof wasn't made upon that.

(Testimony of Albert Jemison.)

By Mr. BICKFORD.—He testified that he did locate her.

By Mr. ZEVELY.—Yes, but there is another location here.

Q. You didn't locate her a second time, did you?

A. No, sir.

Q. You didn't locate any of the persons then, that came to the Helena land office to qualify, did you?

A. No, sir.

Q. All of yours were confined to the Missoula land district? A. Yes, sir.

Q. How many of those persons, Mr. Jemison, whose names we have gone over here to-day and that you have recognized as having been located by you, are related to you? Give their names please?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial to the issues in this case.

Q. Just give their names, Mr. Jemison, please?

A. Could I have that piece of paper? (Witness refers to paper with list of names on, which counsel hands to witness.)

Q. Yes, you can have this piece of paper? There may be some of these on there and you can use it to refresh your memory and give me the names of those you have gone over who were your relatives.

A. Jacob F. Jemison.

(Testimony of Albert Jemison.)

Q. All right, who else? What relation is Jacob F. Jemison? He is your father, isn't he?

A. He is, yes, sir.

Q. All right, the next one.

A. Do you want the—the next one is Zora Jemison.

Q. What relation is she to you?

A. She is a sister in law.

Q. All right, go ahead.

By Mr. BICKFORD.—I think we will interpose an objection, if your Honor please, to the testmony of the witness, at this point, for the reason that in his testimony heretofore given he has stated in it the relationship which exists between the entrymen and entrywomen he has mentioned, and this is simply a repetition of the testimony heretofore given.

Q. (By Mr. BICKFORD to Mr. ZEVELY.) What do you want to duplicate that for?

By Mr. ZEVELY.—To see that he has got them all.

By Mr. BICKFORD.—We are willing to stipulate to that effect.

By Mr. ZEVELY.—That might suit your purpose, but it won't suit mine.

A. Recy M. Jemison.

Q. What relation is she to you?

A. She is a sister.

Q. Well, go on with the next one.

A. Lavina J. Gilman.

Q. What relation is she to you?

(Testimony of Albert Jemison.)

A. She is a sister.

Q. Who is the next? A. Josuha C. Gilman.

Q. Al right, what relation is he to you?

A. He is a brother in law.

Q. Well, the next one.

A. George P. Jemison.

Q. George P. Jemison. What relation is he to you? A. He is a brother of mine.

Q. A brother. All right, go ahead.

A. Eveline J. Jemison.

Q. What relation is she to you?

A. She is my mother.

Q. Well, go ahead. A. Emma Dildina.

Q. What relation is she to you? A. A sister.

Q. Well, go ahead.

A. Laura Roll is the next.

Q. Well, what relation is she to you?

A. A sister.

Q. All right, go on.

A. George Dildina.

Q. What relation is he to you?

A. He is a brother in law.

Q. Well, the next one. A. Matilda Eddy.

Q. What relation is she?

A. A niece. Thomas Roll.

Q. Yes, what relation is he to you?

A. A brother in law.

Q. All right, go ahead. A. Laura Roll.

Q. You have got Laura Roll before, haven't you?

(Testimony of Albert Jemison.)

A. Yes, well she is a sister. I called Laura Roll, didn't I?

Q. Yes, I believe you did.

Q. What is the next? A. Albert Jemison.

Q. What relation is he? A. A brother.

Q. Well, go on to the next. A. Zora Jemison.

Q. Well, we have got her once, haven't we?

A. Have we?

Q. What relation is she?

A. She is a sister in law.

Q. Yes, well go ahead with the next.

A. Charles M. Jemison.

Q. What relation is he?

A. He is a brother.

Q. Any more?

A. No, I think that is all.

Q. Now, Mr. Jemison, you have heretofore stated that at your mother's house, and in a certain camp, you had by word of mouth advised these persons on these two occasions of the circumstances under which they could make these entries under the Timber and Stone Act, and make disposition of these entries to R. M. Cobban for a hundred dollars and their expense money. You also have stated that your mother had written a letter over to her daughter and others in the Bitterroot valley apprising them that you were engaged in his business. Do you now call to mind any other occasion or place upon which you made it known

(Testimony of Albert Jemison.)

that you were engaged in this business under which these settlements and locations could be made?

By Mr. BICKFORD.—To all of which we object, for the reason that the witness has not stated the facts as stated by counsel, and for the further reason that it is irrelevant and immaterial, and is not responsive to any issue raised by the pleadings in this case, and upon further ground that it has not been shown at any time that statements have been made by the witness when the defendant in the case has been present to hear such statements, and therefore the testimony is irrelevant, incompetent and immaterial.

A. Yes, I believe I did.

Q. Well, just state it and when it occurred.

By Mr. BICKFORD.—We object to that also as being irrelevant and immaterial.

A. I don't remember the parties that I talked with. There was parties that I talked around about it, but I don't remember any names. I told parties in Missoula about it, and I told parties up the river.

Q. Well, just state what you told them.

By Mr. WALSH.—We object to that for the reason that it is immaterial, irrelevant and incompetent, and does not tend to prove any of the issues raised by the pleadings in this case.

Q. Well, go ahead Mr. Jemison and state what you said to them.

(Testimony of Albert Jemison.)

A. I told them that they could take up claims and get a hundred dollars each clear of all expenses.

Q. Is that all you told them? A. Yes,

Q. Did you tell them anything about your own connection with it?

We object to that as being leading.

A. Did I tell them what?

Q. Did you tell them anything about your own connection with it?

A. I told them that I was working for Mr. Griswold,

Q. Did you tell them to whom they could make this sale?

By Mr. BICKFORD.—We object to that as being leading.

Q. Answer the question, Mr. Jemison.

A. Yes, sir, I did.

Q. Well, who was it?

By Mr. BICKFORD.—We object to that as being entirely irrelevant and immaterial to any of the issues raised in this case.

A. Told them they could sell the land to Cobban & Dinsmore.

Q. Did you tell them you knew that of your own knowledge?

By Mr. BICKFORD.—That is objected to as leading.

A. No, I don't know as I did.

Q. In the matter, Mr. Jemison, of these fourteen persons whom you have heretofore named as your rela-

(Testimony of Albert Jemison.)

tives, did you have any knowledge, or did you know whether or not they or either of them had ever been on the selections they made, prior to the time of making the selections?

A. I don't understand the question.

Q. Well, had they been on the land prior to the time they went there to survey it with the eye, for the purpose of locating upon it?

A. Do you mean after they was located, after they filed?

Q. The question is that I asked you, before they filed on the locations? A. Yes, sir.

Q. They had been there? A. Yes, sir.

Q. But I mean before the time they called there for the purpose of visiting there with you, or by yourself. You have already testified to that, that either or all of them had been there during that time.

A. Yes.

Q. Now, then, prior to that time, had any of them been on these selections?

By Mr. BICKFORD.—We object to that for the reason that it is incompetent, irrelevant and immaterial. A. Yes, they had.

Q. How many of them had been off?

A. What you mean is, if they were on the land before that time?

Q. No. You have testified, Mr. Jemison, that either you took them or that they went up to the locations

(Testimony of Albert Jemison.)

they made, each one of them. Now, the question I asked you is, before the time they made any filing, before they were located on the land, and before they made any filing, did you take them up there with you, or do you know if they had been on there before that time? A. Before I took them on the laad?

Q. Yes.

A. Well, I don't know of any of them being on the land, only two or three of my brothers and my father.

Q. Had they been on the land before?

A. They had been on their claims before. They live right there.

By Mr. BICKFORD.—We now move to strike out the question and the answer of the witness, for the reason that they are immaterial and irrelevant.

Q. Do you know whether they have been on these claims since they made their filing?

By Mr. WALSH.—We object to that as being irrelevant and immaterial to any of the issues raised in this case.

A. No, sir, I don't know as they was.

Q. Do you know, as a matter of fact, with reference to these fourteen persons—your relaties—do you know whether or not any of them paid any money into the land office at Missoula?

By Mr. WALSH.—We object to that, for the reason that it is not the best evidence of the facts sought to be adduced.

(Testimony of Albert Jemison.)

A. No, sir; I don't know any thing about it.

Q. Do you know that they did not pay any money in there?

By Mr. WALSH.—We object to the question for the reason that it is leading, in the first place, and, further, that the question has already been answered by the witness.

A. I couldn't say as to that.

Q. In your conversations with these persons and the others for whom you located, your father and mother, for example, and these relatives of yours—

A. Yes.

Q. When steps were necessary to be taken, did you not advise them that they did not have to put up any money at all in this connection?

By Mr. BICKFORD.—We object to the question for the reason that it is leading, and upon the further ground that it is irrelevant and immaterial to any of the issues in this case.

A. I don't remember of having any conversation about that.

Q. Let me put it in another shape. Wasn't it the understanding amongst all of them that all they had to do was to go upon the land and then go down to Missoula and make their preliminary affidavits or filing, and then subsequently to go and make their final proof, and that then they would receive pay for whatever expenses they had been put to in taking these various

(Testimony of Albert Jemison.)

steps, and, in addition, a hundred dollars, and that they would have nothing else to do in connection with it. That so far as the advertising was concerned, that would be attended to, not by them, but by others for them, and that all papers and other documents would be prepared for them, and the steps I have indicated were the only ones necessary for them to take, except that they were to convey the lands immediately by deed, to Mr. R. M. Cobban.

By Mr. BICKFORD.—To which question the defendants object for the reasons, first, that the question is leading; second, that it is irrelevant, incompetent and immaterial and third, because it is not responsive to any issue in the case, and does not prove or tend to prove any issue raised by the pleadings herein.

By Mr. ZEVELY.—Do you understand the question, Mr. Jemison?

A. Well, I don't believe I do.

By Mr. ZEVELY.—Well, I will withdraw the question for the present and put it in different shape.

At this point a recess was taken until two o'clock, P. M., of the same day.

Saturday, Dec. 14th, 1901, 2 P. M.

Hearing resumed. Direct examination of the witness, Albert Jemison was continued, by Mr Zevely.

Q. In your testimony this morning, Mr. Jemison, you stated that you sometimes went with parties down to

(Testimony of Albert Jemison.)

Missoula yourself, and at other times you sent them with these notes or memoranda. When you went with the parties to Missoula, where did you go with them; what was your procedure when you went with a party?

Mr. BICKFORD.—Objected to; immaterial, irrelevant and incompetent.

A. Why, I went to Mr. Catlin at Cobban & Dinsmore's office.

Q. Then what happened usually?

A. Well, if I had the numbers of their land I gave them to him and went on; told him just who the people was and went on.

Q. Did you ever go to the land office with them from there? A. No.

Q. Now, in your statements to these numerous persons whom you have enumerated this morning, with reference to what they would have to do in order to secure these locations and then sell them, did you or did you not tell them that they would have to pay any money themselves?

Mr. WALSH.—Objected to; leading.

A. I don't think I did.

Q. Didn't tell them whether they would have to or not? A. No.

Q. Can you state of your own knowledge whether or not they knew that they would not have to pay any money?

(Testimony of Albert Jemison.)

Mr. BICKFORD.—Objected to; leading.

A. Yes, they did.

Q. On the occasions when you took parties down to Missoula, and after they had proved up, did you ever go to Cobban's office immediately after they had proved up, or not?

Mr. WALSH.—Objected to as leading.

A. Sometimes I did.

Q. What happened on those occasions when you went there afterwards at such times?

Mr. BICKFORD.—Objected to; immaterial, irrelevant and incompetent for any purpose.

A. Well, I couldn't say.

Q. Did you ever see them execute any deeds?

Mr. BICKFORD.—Objected to; leading.

A. No, I don't believe I did, only the two of me and my father's.

Q. Now, after you got through with this work in locating persons, were you employed by Mr. Cobban in any other capacity in connection with this land business?

Mr. BICKFORD.—Objected to; irrelevant and immaterial.

A. I worked several days by the day for Mr. Cobban in the woods.

Q. What were you doing?

A. I was working with the estimators, as a compassman.

(Testimony of Albert Jemison.)

Q. Who were the estimators?

A. Mr. Handly and Mr. Sparks.

Q. Who were they; do you know who they were representing?

Mr. BICKFORD.—Objected to, unless the witness knows of his own knowledge.

Q. I say, if you know.

A. I understood that Mr.—

Mr. WALSH.—We object to the witness telling what he understood; that was not the question.

The EXAMINER.—Let the witness answer in his own way, and you can put in your objection afterwards.

Q. Answer just as you please.

A. I understood Mr. Handly was working for Cobban and Mr. Sparks was working for McLaughlin.

Mr. BICKFORD.—We move to strike out the testimony of the witness, because he does not state a fact within his own knowledge, but simply his understanding of the matter.

Q. Did they tell you for whom they were working?

Mr. WALSH.—Objected to as hearsay.

A. Yes, sir.

Q. Who did Mr. Handly say he was working for?

Mr. BICKFORD.—Objected to; hearsay.

A. R. M. Cobban.

Q. What are Mr. Sparks' initials, do you know?

A. I don't know.

(Testimony of Albert Jemison.)

Q. Did Mr. Sparks tell you for whom he was working?

Mr. WALSH.—Objected to; hearsay.

A. Yes, sir; McLaughlin.

Q. What McLaughlin?

A. Well, his name is McLaughlin.

Q. Do you know who McLaughlin represented, if any one?

A. At that time I understood that he was—

Mr. BICKFORD.—We object.

The EXAMINER.—Let him get through with the answer.

Mr. BICKFORD.—We want a chance to make our objection.

The EXAMINER.—You will have a chance to make your objection. Answer the question.

A. I understood he was superintendent or manager or something in that way for the Western Milling Company or something of that kind.

Mr. WALSH.—We move to strike out the answer because the witness does not appear to tell anything that he knows about it, and his understanding about it is immaterial and irrelevant.

Q. Who is the Western Milling Company, do you know?

A. I just don't know as I could exactly say who it is;

(Testimony of Albert Jemison.)

it is a company, and I don't know who is at the back of it.

Q. Was there any general impression in the community as to who was at the back of it?

Mr. WALSH.—Objected to; immaterial.

A. Yes, sir.

Q. What was that general impression?

Mr. WALSH.—The same objection; also that it is hearsay.

A. W. A. Clark.

Q. The defendant in this case, W. A. Clark of Butte?

A. Yes, sir.

Q. The present United States Senator from here?

A. Yes, sir.

Mr. BICKFORD.—We object to that and move to strike out the question and answer, because the question is leading.

Q. How long were you engaged with these estimators in this work of going over this timber land?

A. I just can't say to the day; several days; fifty or sixty days.

Q. What lands did you go over with these men?

A. Well, it was principally on these lands that we have just been—

Q. Upon which you had located people?

Mr. WALSH.—Objected to; leading.

A. Yes, sir.

(Testimony of Albert Jemison.)

Q. Any others beside these? A. Yes, sir.

Q. In a general way what were they?

Mr. BICKFORD.—Objected to; immaterial.

A. Well, it was all kinds of lands, timber lands, scrip—unsurveyed land is what I mean, and land that belonged to other people at that time when we were on it.

Q. State if you know whether these additional lands or part of them were composed of those upon which Mr. Griswold had located claimants?

Mr. WALSH.—Objected to; leading.

A. Part of them was.

Cross-examination.

(By Mr. WALSH.)

Q. I call your attention to this paper, being one of the papers in connection with Cash Entry No. 1177, Missoula land office, Mr. Jemison, and ask you if that is your signature? A. Yes, sir.

Q. This appears to be the cash entry of Elvira M. Hardy. Do you remember being a witness for her on her final proof, Mr. Jemison?

A. I believe I remember something about it; I don't know just how many I was a witness for; as I said before, it is out of my memory. I was advertised as a witness on a great number of them other cases.

Q. Look over the paper to which I call your attention, and after seeing your signature there and examining the paper then tell me what is your best recollection

(Testimony of Albert Jemison.)

as to whether you were or were not a witness for Elvira Hardy upon her proof? A. I was a witness.

Q. Mr. Jemison, I perceive that, among other questions propounded to you upon that occasion, was the following: "Do you know whether the claimant has directly or indirectly made any agreements or contract in any way or manner with any person whomsoever, by which the title he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?" To which it appears that you answered: "Not that I know of." Was that correct, Mr. Jemison?

A. I believe it was.

Q. You didn't know at that time, did you, of any agreement that Elvira Hardy had made with anybody by which she had undertaken to convey that land to them before she made final proof?

A. I didn't know of any agreement to the best of my knowledge, no, sir.

Q. Do you now know of any agreement having been made between Elvira M. Hardy and anybody before she made final proof to this land, that she would convey it to anybody? A. I don't know as I do.

Q. You were a witness also for John H. Hardy upon his final proofs, were you not?

A. On John H. Hardy's claim?

Q. Yes. For the purpose of refreshing your memory about the matter, I call your attention to the proof, Mr. Jemison? A. That is my signature.

(Testimony of Albert Jemison.)

Q. And seeing your signature there, are you able to say whether you were or were not a witness for Mr. Hardy upon his making his final proof?

A. Yes, sir.

Q. It appears that the same question was propounded to you in that instance: "Do you know whether the claimant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title he may acquire from the government of the United States may inure in whole or in part to the benefit of any person except himself?" To which you answered: "Not that I know of." That was true, wasn't it?

A. To my answer, yes, sir.

Q. You never were present at any time or at any place, were you, when you overheard John H. Hardy agree, prior to the time that he made final proof to his land, that he would convey that land to anybody after he had made the final proof?

A. Not to my knowledge.

Q. Mr. Jemison, I show you the papers in connection with your own entry, No. 1124. In the sworn statement filed by yourself in connection with your own application, I find the following: "I have made no other application under said acts. I do not apply to purchase the land above-described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not directly or indirectly made any agreement or contract in any way or manner with

(Testimony of Albert Jemison.)

any persons or persons whomsoever, by which the title I may acquire from the government of the United States may inure in whole or in part to the benefit of any person except myself." Now, Mr. Jemison, I wish you would tell us whether, prior to the time that you made this affidavit on the 15th of July, 1899, you had said to anybody that you would convey this land to anybody for any price after having obtained final proof upon it?

A. Yes, sir. I took it up for speculative purposes; I took it up with the intention of selling it when I went to take it.

Q. That is, you contemplated—

A. I couldn't take it no other way; I never invested in my life but what I had intentions—

Q. Then you contemplated at some time selling it?

A. Yes, sir.

Q. The question was whether, at any time prior to the time that you made this affidavit, you said to anybody that you would sell this land to any particular person for any particular sum after you had made final proof on it? A. Yes, sir.

Q. To whom did you say so?

A. Well, I don't remember now who; I know I spoke about it to my folks; I don't remember of any strangers.

Q. What did you say to your folks?

A. I told them I was going to sell it as soon as I proved up on it.

Q. And with whom, if with anybody, did you make an agreement to sell it to him?

(Testimony of Albert Jemison.)

A. No, not what I would call an agreement.

Q. Exactly. Was this true at the time that you made it, Mr. Jemison, that you had not made a contract or agreement with anybody by which you were going to sell that claim to him?

A. That there—well, only in the way that I talked with Mr. Griswold; with the exception of that, it was, yes, sir.

Q. Now, speaking about Mr. Griswold you have told us here what was said between you and Mr. Griswold. You went to see Mr. Griswold, as I understood you, either to get a claim or to get employment in locating people upon claims? A. Yes, sir.

Q. That was the occasion of your going to see Mr. Griswold, was it? A. Yes, sir.

Q. You stated that he told you that if you wanted a claim, to go and locate it yourself, and there would be a chance to sell it and make one hundred dollars clear of all expenses? A. Yes, sir.

Q. Anything further?

A. I don't understand you.

Q. Was there anything further said between you and Mr. Griswold?

A. No, I don't know as there was.

Q. That was practically the substance of the conversation between you and Mr. Griswold?

A. I think it was at that time, yes, sir.

Q. And did you have any other conversation with

(Testimony of Albert Jemison.)

Mr. Griswold touching any agreement or contract to sell this land after you had made final proof upon it?

A. No, sir; I did not.

Q. Now, Mr. Griswold told you, as I understand you, that if you went and took up a claim and made proof upon it, there would be a chance to sell it for all you put into it and one hundred dollars besides?

A. Yes, sir.

Q. That is the fact, is it? Now, what I want to know is, did you bind yourself to do that?

A. No, sir.

Q. Then, what have you to say, sir, as to your statement in your sworn statement being true or false, that you had not made any contract or agreement with anybody by which you were to sell that claim to them?

A. Well, I took it with the intentions of being true.

Q. What have you to say as to whether that was or was not true? A. It was true.

Q. Now, when you made your final proof, you were asked this question: "Have you sold or transferred your claim to this land since making your statement, or have you directly or indirectly made any agreement or contract in any way or manner with any person whomsoever, by which the title which you may acquire from the government of the United States may inure in whole or in part to the benefit of any person except yourself?" To which you answered: "No, sir." Was that true?

A. Yes, sir.

(Testimony of Albert Jemison.)

Q. Then I understand that up to that time you had not made any agreement directly or indirectly by which you bound yourself to convey that claim to anybody, up to the time that you made final proof?

A. I didn't bind myself, no, sir.

Q. Well, what I mean by bind is, did you make any contract or agreement with anybody by which you would be bound to convey that claim?

A. No, sir, I did not.

Q. Now, you testified here yesterday afternoon, didn't you?

A. I believe so, yes, sir.

Q. Did you have any conversation with anybody after the adjournment last evening touching the testimony which you had given yesterday afternoon?

A. Why, I was talking to several people, yes, sir.

Q. With whom did you talk about the matter?

A. I talked with my own parties that is here with us, and I talked with Mr. Zevely and Mr. Maynard.

Q. Mr. Zevely and Mr. Maynard interviewed you immediately after the adjournment last night, did they not?

A. I went up to the hotel with them, yes, sir.

Q. They had a long talk here with you in the courtroom after court adjourned did they not?

A. Nothing very long in here; just a minute or two.

Q. About how long?

(Testimony of Albert Jemison.)

A. Oh, I suppose two or three minutes; I wouldn't say how long.

Q. And then you went where with them?

A. Over to the hotel where they are stopping; I don't know the name of the place.

Q. At whose invitation did you go to the hotel?

A. I believe one of them invited me to go along with them.

Q. Either Mr. Maynard or Mr. Zevely?

A. Yes, sir.

Q. What was the nature of the conversation that you had concerning the testimony given yesterday?

A. Well, we wasn't talking about that.

Q. Well, what did you talk about?

A. About my affidavit.

Q. About an affidavit that you made?

A. Yes, sir.

Q. When did you make this affidavit, Mr. Jemison?

A. I made this affidavit in Missoula some time last April, I believe—I am not just sure.

Q. At whose request?

A. Mr. Zevely's request.

Q. At the time that Mr. Zevely was investigating these matters? A. Yes, sir.

Q. What was the nature of the conversation concerning that affidavit?

A. Well, just the difference between the way my affidavit corresponded and what I was swearing to here yesterday.

(Testimony of Albert Jemison.)

Q. These gentlemen were insisting that there was a difference, were they? A. Yes, sir.

Q. And what did they say about it?

A. Well, they said I wasn't sticking to my affidavit.

Q. What further?

A. That is about all that I remember of it.

Q. What did you say about it?

A. I didn't say very much if anything.

Q. That is all the conversation there was, Mr. Jemison?

A. Oh, we had other talk, but that was all, I guess, that I considered—

Q. Give us briefly and generally what was said there, Mr. Jemison, just tell about what took place.

A. Well, I guess that was about all; we was just talking about that affidavit and there was some parts that I was talking about, the affidavit and about the way I swore here yesterday on the stand; that was about all it was.

Q. Did you say anything on the stand yesterday that was not the truth?

A. I don't think I did; if I did, I didn't do it intentionally.

Q. Now, what did they say, if anything, concerning the effect of this difference which they claimed to exist between your testiminy of yesterday and the testimony that was in this affidavit?

(Testimony of Albert Jemison.)

Mr. ZEVELY.—I object to that question, for the reason that it doesn't make any difference what our opinion might have been as to the effect of that difference in the testimony he gave.

Q. I ask you what they said to you about the difference between this testimony and the affidavit?

A. Well, they said that what I was swearing now would not correspond with my affidavit that I gave.

Q. Did they say anything as to what would or might result to you by reason of that fact? A. No, sir.

Q. What did they want of you, Mr. Jemison?

A. They just wanted—I suppose—I took it that they wanted to call my attention to that affidavit.

Mr. MAYNARD.—Can't you answer that question more directly? My brother Walsh wanted to know what we wanted of you; what did we want of you; just answer his question as fully as you can on that point; what did we want you to do?

The WITNESS.—Well, you wanted me to stick to that affidavit.

Mr. ZEVELY.—Was that what we said?

Mr. WALSH.—Wait a minute, gentlemen.

The EXAMINER.—Let Mr. Walsh go on with the cross-examination of the witness, and you can examine him afterwards.

(By Mr. WALSH.)

Q. Now, Mr. Jemison, as I understand you, when

(Testimony of Albert Jemison.)

you took up this claim of yours you did not contemplate cutting down the timber and putting up a sawmill yourself and sawing the timber up into lumber; is that correct? A. Me putting up a sawmill?

Q. Yes? A. No, sir.

Q. Then you did contemplate at some time or other selling the claim, and you told your folks so; is that correct?

A. I don't understand you. I never was in the sawmill business; never was.

Q. So you didn't really intend to keep the land yourself and cut down the timber on it and put up a sawmill and saw the timber up into boards?

A. I don't know whether they did it with the intentions of that or not.

Q. No, I am speaking about your intentions, Mr. Jemison; you had no such intention, had you?

A. No, sir.

Q. What did you intend eventually to do with your claim after you had got title to it?

A. I intended to sell it.

Q. And make any amount of money out of it that you could, I suppose that was your idea?

A. Yes, sir.

Q. Now, Mr. Griswold told you, as I understood, that there would be an opportunity to sell it for everything that you had put into it and one hundred dollars besides? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. Now, in these various talks that you say you had with your people or with your friends at your house, your father's house or in any camp, what further did you say to these people than what Mr. Griswold said to you, namely, that if they took up a claim and made final proof on it, that they could, after they had made final proofs, sell the claim for one hundred dollars over and above everything it cost them; what else did you say to them?

A. I don't know—I don't remember now saying anything else to them.

Q. That was the substance of what you said, wasn't it? A. I believe it was, yes, sir.

Q. Now, you were a witness upon the final proof of quite a number of these parties, weren't you?

A. I believe I was; I know I was; I don't know just how many I was.

Q. However, before we reach that point—when you were about your father's table or in your father's house and you told these people of the opportunity to take up these claims and the opportunity there would be to sell them for at least one hundred dollars besides the expenses, I wish you would tell us what one of any or all of these people ever promised you, or anybody else or made any contract or agreement with you, or anyone else that you know of that he or she would, after final proof had been made, sell the claim for one hundred dollars over and above all expenses?

(Testimony of Albert Jemison.)

A. I don't know of anybody.

Q. I call your attention to the papers in connection with the entry of Jacob F. Jemison, Cash Entry No. 1123, and ask you to look at it and tell us whether you were a witness for Jacob F. Jemison? A. Yes, sir.

Q. Now, I perceive that in that case you were asked the question: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever, by which the title which he may acquire from the government of the United States, may inure in whole or in part to the benefit of any person except himself?" To which you answered: "No, sir." Is that true, Mr. Jemison? A. Yes, sir.

Q. I show you the papers in connection with the entry of Eveline Jemison, No. 1136, and ask you if you were a witness for her? A. Yes, sir.

Q. You were asked substantially the same question with reference to Eveline Jemison, and made the same answer, did you not? A. Yes, sir.

Q. That was true, wasn't it?

A. Yes, sir; I answered it; yes, sir.

Q. Were you ever present at any time when Eveline Jemison, prior to the time that she made final proof, made any contract or agreement with anybody that she would convey this land to them? A. No, sir.

Q. I call your attention to entry No. 1137, the entry of Sarah Yarger, and ask you if you were a witness for her? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. You were asked substantially the same question concerning her, as to whether you knew of her making any agreement or contract directly or indirectly in any manner with any person whomsoever, by which she would convey to them, and you answered substantially the same way, did you not?

A. Yes, sir.

Q. Was that true? A. Yes, sir.

Q. Were you ever present at any time when Sarah Yarger made any agreement with anybody that she would convey to them this land, prior to the time that she made final proof?

A. Not as I know of.

Q. I show you—

A. Just allow me to ask one question. What does an agreement mean?

Q. An agreement is a meeting of two minds, by which one person asks another if he will do a certain thing, and the other person says he will do that thing, for a consideration. Now, if you desire to modify your answer in any way I desire that you should.

Mr. ZEVELY.—I think you ought to explain that it need not be that this agreement should have been made between the party and Mr. Cobban.

Mr. WALSH.—I have asked him so that he must understand.

(Testimony of Albert Jemison.)

Mr. ZEVELY.—I don't think the witness understands, he seems to think that an agreement is a written agreement and all that sort of thing.

The EXAMINER.—Just let Mr. Walsh have the witness.

Q. I show you the proof of Emma Dildine, Cash Entry No. 1138, and ask you if you were a witness for her upon her final proof? A. Yes, sir.

Q. You were asked the same question with reference to Emma Dildine, and you answered it substantially the same way, did you not? A. Yes, sir.

Q. Was that true? A. Yes, sir.

Q. Now, Mr. Jemison, so that there may be no mistake about this proposition at all—Mrs. Dildine was your sister, was she not? A. Yes, sir.

Q. You know what a contract is, if you and I make a contract?

A. Yes, sir, I know what a contract is.

Q. And I want to know from you whether you ever asked your sister in substance, prior to the time that she made final proof, whether she would, after she had made final proof, convey this land to anybody for a specific, certain sum, or any sum, and whether she promised you that she would do so upon the payment to her of a certain sum? A. No, sir, I did not.

Q. Now, your sister understood, as I understand you, that if she wanted to do so after she had made the final

(Testimony of Albert Jemison.)

proof she could sell her claim to Mr. Cobban for one hundred dollars over what she put into it?

A. Yes, sir.

Q. And all these people understood that?

A. Yes, they all understood it.

Q. But, so far as you have yet been inquired of, and so far as you know, what one of these people ever did undertake and promise before that time that he or she would do so; can you tell us one of these who, before the patent was issued, agreed that he or she would, after the final proof had been made, convey to anybody?

A. Yes, sir, there was some.

Q. Now, who was it?

A. I don't remember of any women. Mr. Hendrix, I believe, was one.

Q. What was the conversation had between you and Mr. Hendrix? You have told us that, have you not? Didn't you state in your direct examination that you didn't have any conversation with Mr. Hendrix concerning the disposition of this land at all?

A. I don't know whether I did or not.

Q. You don't remember that you did. Didn't you say on your direct examination that all the conversation you had with Mr. Hendrix was that he said to you that when he sold his land he would pay you ten dollars? A. I believe that is it, yes, sir.

Q. That is the extent of the conversation you had with Mr. Hendrix, isn't it? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. And did you not say also on your direct examination with reference to Mr. Hendrix, that he said nothing at all as to whom he was going to sell it to?

A. I believe that was it, yes, sir.

Q. So that you don't pretend, Mr. Jemison, that you and Mr. Hendrix made any agreement about what Mr. Hendrix was going to do, or that he was going to sell this land to anybody, do you?

A. I don't know as I do.

Q. I show you Cash Entry No. 1147, George Dildine. You were a witness for George Dildine, too, weren't you? A. I believe so, yes, sir.

Q. You were asked the same question with reference to George Dildine: "Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever, by which the title he may acquire from the government of the United States may inure in whole or in part to the benefit of any person except himself"? To which you answered: "No. sir." Was that correct?

A. Yes, sir.

Q. You did not ever hear Mr. Dildine make any contract or agreement with anybody that he was going to convey that land to them, did you?

A. No, sir, I don't know as I did.

Q. I show you entry No. 1168, the proof of Zora Jemison, and ask you if you were not a witness for her?

A. Yes, sir.

Q. You were asked the same question with reference

(Testimony of Albert Jemison.)

to Zora Jemison, and your answer was, "No, sir, not to my knowledge," was it not? A. Yes, sir.

Q. That was correct, was it not?

A. Yes, sir.

Q. Did you ever hear anybody make a proposition in substance to Zora Jemison, asking her if she would or would not, after she had made final proof, convey this land to Mr. Cobban or to anyone else, to which Miss Zora Jemison answered in substance that she would?

A. I don't know as I did.

Q. I show you No. 1139, the proof of Laura Roll, and ask you if you were a witness for her?

A. Yes, sir.

Q. You were asked the same question with reference to her, to which you answered, "No, sir," did you not?

A. Yes, sir.

Q. Was that true? A. Yes, sir.

Q. I show you No. 1176, proof of John G. Hendrix, and ask you if you were a witness for Mr. Hendrix?

A. Yes, sir.

Q. You were asked the same question, to which you answered: "Not that I know of." Was that true, Mr. Jemison? A. Yes, sir.

Q. I show you No. 1188, the proof of Albert Ehle. You were a witness for him, were you?

A. Yes, sir.

Q. And you were asked the same question as to Mr. Ehle, and you answered, "No, sir."

A. Yes, sir.

(Testimony of Albert Jemison.)

Q. That was true, was it? A. Yes, sir.

Q. I show you No. 1186, proof of John B. Reeve. You were a witness for him, were you not?

A. Yes, sir.

Q. You were asked the same question about Mr. Reeve, and you answered, "Not that I know of." That was correct, was it ? A. Yes, sir.

Q. I show you the proof of Robert Starkie, Entry No. 1187. You were a witness for him, were you?

A. Yes, sir.

Q. You were asked the same question as to Mr. Starkie, and you answered, "No," to that. Was that correct? A. Yes, sir.

Q. I show you the proof of Eliza A. Reeve, No. 1189, and ask if you were a witness for Mrs. Reeve?

A. Yes, sir.

Q. You were asked the same question with reference to her and you answered, "No." Was that correct?

A. Yes, sir.

Q. Now, the fact is that you don't know that any of these people, do you, Mr. Jemison, ever made a contract prior to the time that they made final proof that they would sell this land after they made final proof to anybody?

A. I don't know of anything compelling them to sell it to them, no sir.

Q. You knew that they all had an opportunity to sell if they wanted to? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. Don't you know as a matter of fact that some of these people did go to someone else and endeavor to sell this land?

A. My sister tried to sell her claim to Mr. McLeod in Missoula, I believe.

Q. And do you know of anybody in Missoula or elsewhere that was willing to pay any more for this land than Mr. Cobban was? A. No, I don't.

Q. That was the best market there was, wasn't it, so far as you knew, for this land?

Mr. ZEVELY.—That question is objected to because it is immaterial and irrelevant. A. Yes, sir.

Q. I find you were also a witness for John Murtaugh on his final proof, entry No. 1196. Is that not correct?

A. Yes, sir.

Q. You were asked the same question with reference to Mr. Murtaugh; to which you answered, "No, sir." Is that correct? A. Yes, sir.

Q. That was true as you understood it at that time, was it not? A. Yes, sir.

Q. Now, among other things that were told you by Mr. Griswold and that you told these friends of yours, as I understand, was that they could get the money to make the final proof from Mr. Cobban or from Cobban & Dinsmore? A. Yes, sir.

Q. Now, you afterwards went to work directly for Mr. Cobban, as I understand, Mr. Jemison?

A. Yes, sir.

(Testimony of Albert Jemison.)

Q. And you say you located people on these lands?

A. Yes, sir.

Q. Now, I wish you would tell clearly, Mr. Jemison, what you mean by locating a person upon land?

A. Well, taking a man out and going through the lands and looking up different land, and showing whatever forty acres or eighty acres or one hundred and sixty acres that he wants in a section or in a township.

Q. That is what you mean when you say that you located a man on the land; you took him out on the land, showed him where the corners were and took him through and showed him how much timber there was, and so on and so on; that is what you mean by locating a man on the land? A. Yes, sir.

Q. Now, with reference to the piece of land that was taken up by yourself; it was somewhere, as I understand in the neighborhood of where you live?

A. Yes, sir.

Q. You had been through that section of country for various purposes prior to that time?

A. Yes, sir.

Q. Hunting and for other purposes?

A. Yes, sir.

Q. You knew this land? A. Yes, sir.

Q. You seem to be somewhat familiar at the present time with the subdivisions of the land, the congressional subdivisions, the location of the lands by section, town and range? A. I helped to survey the lands, sir.

Q. When were they surveyed?

(Testimony of Albert Jemison.)

A. I just can't tell you what year; I think about five years ago.

Q. Is that the time that you first became familiar with the particular descriptions of the tracts?

A. Yes, sir, and then by working in through the lands and looking up lands.

Q. Afterwards? A. Yes, sir.

Q. Now, at the time that you went to take up this particular piece of land that you took up, Mr. Jemison, did you then know the particular description of that particular one hundred and sixty acres?

A. Yes, sir, I did.

Q. You knew that? A. Yes, sir.

Q. Did you have any maps from the land office at that time? A. No, sir.

Q. Indicating to you what lands had been appropriated and what had not? A. No, sir.

Q. Where did you get the information concerning that matter?

A. Well, a short time after that, I got information from the land office and some from Mr. Catlin.

Q. But I mean at the time that you went to see Mr. Griswold in the first place; did you then have and direct information from the land office as to which of these tracts had or had not been appropriated?

A. No, sir, I did not.

Q. Well, you did as a matter of fact get some information from Mr. Griswold about that, did you not?

A. Yes, sir.

(Testimony of Albert Jemison.)

Q. He, then, had maps and data from the land office giving information as to these facts, did he not?

A. Yes, sir, but on this land that I had taken, I knowed it was vacant.

Q. How did you know it?

A. I knowed it had been vacant for a long time.

Q. Why did you take that particular tract of land?

A. Because there was an amount of timber on it to suit me.

Q. You mean that there was more timber on it than there was upon other tracts?

A. Well, no, not exactly, but it was timber—it was land that had marketable timber, close to the river.

Q. What position did this particular tract have with reference to that feature?

A. Well, I could sell it.

Q. That is, you selected a piece of land that you thought would sell readily, as I understand you?

A. Yes, sir.

Q. And what elements entered into the question of its salability as you viewed the thing?

A. I don't understand.

Q. Why was this particular piece of land any more salable than any other particular piece of land?

A. Well, because it was only about two miles and three-quarters from the river, and other pieces of land, there was several of them that is as high as six and nine miles from the river, and the logs are hauled on

(Testimony of Albert Jemison.)

sleds to the river, and I presume it would make a little difference in the cost.

Q. That was one feature, its nearness to the river where the logs could be driven? A. Yes, sir.

Q. What else—the amount of timber on it, I suppose? A. Yes, sir.

Q. The character and quality of the timber was another thing, I suppose, that you took into consideration?

A. Yes, sir.

Q. And all these things combined to make you select that piece of land as yours instead of some other piece?

A. Yes, sir.

Q. That was why you wanted that particular piece of land? A. Yes, sir.

Q. Now, as I understand you, Mr. Griswold did not designate this particular piece of land for you, but you selected it yourself?

A. Mr. Griswold went on the lands, too.

Q. Afterwards, and looked at it?

Mr. MAYNARD.—He didn't say afterwards.

Mr. WALSH.—I submit that I ought to be permitted to cross-examine without interruption.

Q. Well, is that correct?

A. Well, what I mean is that Mr. Griswold went on this land about three or four days after I went on, and looked it over, and I told him where it was, and he went on the lands, too.

(Testimony of Albert Jemison.)

Q. That was the way I understood you. Now, with reference to that, I understood you that any lands that Mr. Griswold went on and looked at and approved, you knew that particular land you would be able to sell if you wanted to Mr. Cobban for one hundred dollars over and above everything you put into it?

A. Yes, sir.

Q. And that was why Mr. Griswold went and looked at this land, wasn't it? A. Yes, sir.

Q. And as I understood you also, Mr. Griswold did not tell you particularly at that time whom you would be able to sell to at that price?

A. Well, not at that first time, I don't remember of him telling me just who I would sell it to.

Q. It was later on that you got the information as to whom you could sell to for that price?

A. Yes, sir.

Q. Now, I want to inquire of you when you first met Mr. Cobban, Mr. Jemison?

A. It was some time, after I had worked quite a number of days.

Q. For Mr. Griswold? A. Yes, sir.

Q. You subsequently met Mr. Cobban?

A. Yes, sir.

Q. And do you remember when you quit working for Mr. Griswold?

A. I can't just exactly remember the day, no, sir.

Q. Nor when it was that you commenced to work for Mr. Cobban directly?

(Testimony of Albert Jemison.)

A. No, sir, I can't remember that, either.

Q. And you think you worked for Mr. Cobban about how long?

A. Well, I couldn't say that; I worked, I think, altogether it would be close to three months or more, I couldn't say exactly.

Q. And that was locating people upon lands, as you say? A. Not altogether, no, sir.

Q. Well, in addition to looking at the lands afterwards? A. Yes, sir.

Q. But in the first place you were locating people on the lands? A. Yes, sir.

Q. What business was Mr. Cobban engaged in at Missoula at that time?

A. Land and real estate business.

Q. He had a real estate office there, did he not?

A. Yes, sir.

Q. Who was his partner? A. Sam Dinsmore.

Q. And Major Catlin was officing with him there, had his office there?

A. Yes, sir, that is the way I understood it.

Q. You had seen him at the office there repeatedly?

A. Yes, sir.

Q. And that is where he did his work?

A. Yes, sir.

Q. And made out these applications and made final proof, so far as final proof was made there?

A. Yes, sir.

(Testimony of Albert Jemison.)

Q. Now, what instructions did Mr. Cobban give you when you went to work for him locating people on lands, as you say?

A. Well, at that time, after I commenced there for him, he give me the same instructions that I spoke of yesterday afternoon. He told me not to make any—I just forget now the way, but what I taken him to mean was not to make any bargains with the people, that the money was not to be considered as a loan to these people.

Q. You were not to make any bargain with them to that effect?

A. Binding them to sell their claim to him.

Q. Did you carry out those instructions?

A. Well, I aimed to, yes, sir.

Q. Did you ever make any bargain with anybody in the name of Mr. Cobban, binding these people to convey to him after they got their title to the land?

A. I think that from that time on I tried to obey those instructions.

Q. And as far as your operations were concerned, you never undertook to make any bargain or contract with anybody by which they were to agree to convey these lands to Mr. Cobban? A. No, sir.

Q. Now, Mr. Jemison, you were authorized, as I understood you to say that Mr. Cobban would advance to these people whatever money was necessary in order to acquire the title to the land; is that correct?

A. At that time when he was talking; yes, sir.

(Testimony of Albert Jemison.)

Q. And that was to be as a loan from Mr. Cobban to those people, was it not?

A. I believe so, yes, sir.

Q. And you told them so, didn't you?

A. I told some of them, I know, yes, sir.

Q. Well, those that you thought did not understand the thing, you told them, did you not?

A. Yes, sir.

Q. Now, what would go into this loan, Mr. Jemison?

A. I don't know.

Q. What was the loan to consist of; what amount was it to be, and for what purpose? There was four hundred dollars for the land to start out with, was there not? A. Yes, sir.

Q. That Mr. Cobban agreed to advance as a loan, did he not? A. Yes, sir.

Q. What else?

A. The rest would be about one hundred and fifty dollars, I should judge.

Q. What was the one hundred and fifty dollars for?

A. One hundred dollars was for them, and fifty dollars for expenses.

Q. I am not speaking about what was to go to them; what amount was to be advanced?

A. Four hundred dollars in money.

Q. And fifty dollars for expenses?

A. Yes, sir.

Q. Now, what did the expenses consist of?

(Testimony of Albert Jemison.)

A. On the trains and hotel expenses running through from their trips up and down, and proving up.

Q. Making final proof and so on? A. Yes, sir.

Q. Now, there was four hundred dollars to pay for the land, and fifty dollars for expenses. Now, suppose they didn't sell to Mr. Cobban; suppose that after they made final proof, they concluded not to sell to Mr. Cobban, how much money would they owe him?

A. I don't know; I don't know that.

Q. They would owe him what he had advanced for the land, wouldn't they? A. Yes, sir.

Q. Which would be four hundred dollars, and whatever expenses there would be, which you think would be about fifty dollars? A. Yes, sir.

Q. And didn't Mr. Cobban say that they would owe him something else also?

A. I believe so, yes, sir, the location.

Q. How much more?

A. It was either one hundred dollars or two hundred dollars, I don't know which.

Q. One hundred dollars for what?

A. That was for the location, I believe.

Q. For putting them upon the land and for making their entry and for the proof, wasn't it?

A. Yes, sir.

Q. So that these people understood that they could sell to Mr. Cobban, if they wanted to, and get one hundred dollars over and above all expenses, or else they

(Testimony of Albert Jemison.)

would owe Mr. Cobban four hundred dollars and whatever expenses there were and one hundred dollars for locating them upon the land and doing whatever was necessary in order to make the entry; isn't that correct, Mr. Jemison? A. Yes, sir.

Q. Now, I understood you, that Mr. Cobban's instructions to you at all times were not to make any bargain with any of these people by which he agreed to buy this land, but that he would advance the amount to them as a loan?

A. I believe that that was after that time, yes, sir.

Q. After what time do you refer to?

A. The time that I first talked to him and engaged in business with him.

Q. Now, did you ever have any conversation with Mr. Cobban prior to that time concerning the conditions and terms upon which these people were to be located upon the lands?

A. Do you mean how much I was to get for doing this work?

Q. I didn't mean that, but you can tell that if you care to. A. Well, I don't care to tell it.

Q. That was not the question that I asked you. I asked you if you ever had any conversation with Mr. Cobban prior to the time that you went to work for him in which you talked over with Mr. Cobban the terms and conditions upon which these people were to be located upon these lands? A. I don't understand that.

(Testimony of Albert Jemison.)

Q. When you went to work for Mr. Cobban, you told us that he gave you instructions and directions concerning the location of these people upon the lands, that you were not to make any bargain with them to the effect that he would buy the property from them, but that he would advance them the money that they needed to acquire the lands as a loan. I want to know from you whether you ever had any talk concerning those matters with Mr. Cobban before the time that you were employed directly by him in this matter?

A. Before that time that I was employed by him, no, I don't believe I did.

Q. Didn't you ever hear any conversation between Mr. Cobban and Mr. Griswold concerning this matter?

A. I don't remember as I did.

Q. You know as a matter of fact that money was advanced by Mr. Cobban to various of these parties who were making these proofs, as a loan for the purpose of enabling them to make the proof, don't you?

A. Yes—that is, to the best of my knowledge. I heard it that way.

Mr. ZEVELY.—I move that that answer be stricken out as irrelevant and immaterial, and as being hearsay.

Q. Now, how were the corners of these tracts marked so that you could identify the particular tract?

A. The corners of these lands? A. Yes.

A. They were marked on trees; at the section cor-

(Testimony of Albert Jemison.)

ners there was four different trees marked and a rock in the center.

Q. So that the corners at this time were plainly discernible of all these tracts? A. Yes, sir.

Q. And you don't know of any of these people that you located, who did not go upon the ground and look it over?

A. No, sir, I don't. It was my intentions to see that everyone went on the ground; I sent some one or two and the rest I was with myself.

Q. Those that you went with yourself, you know that they went on the ground and actually saw it?

A. Yes, sir, I do.

Q. And those that you sent someone else with, your best information and belief is that they also went on the land? A. Yes, sir.

Q. Now, what did you ordinarily do when you went on the land?

A. Why, we walked over it. I generally always tried to go to some corner or other, and then we would go through the claim, that was all.

Q. What was your purpose in going through the claim?

A. Well, almost all of them wanted to look at their claims.

Q. What for?

A. To see how much timber was on it; I suppose that was what they wanted to see.

(Testimony of Albert Jemison.)

Q. They seemed to be interested in that proposition, did they? A. Yes, sir.

Q. Did any of them make any objection to the particular tract that you would like to have them take up?

A. No, sir, they all wanted the claims.

Q. You were pretty familiar with that country?

A. Yes, sir.

Q. You say you had hunted all through it?

A. Yes, sir.

Q. You assisted in surveying the land?

A. Yes, sir.

Q. You knew then, probably, where the best timber was? A. Yes, sir.

Q. And they usually accepted your judgment about it? A. Yes, sir.

Q. But they usually wanted to go through and see the timber and see how much there was?

A. Yes, sir.

Q. When you made final proof on these lands, the applicant was required as I understand to testify to about what the value of the timber was, or the land itself was?

A. Yes, sir.

Q. And how, if at all, did the applicants get any information about that?

A. Why, they seen the timber, and then they had their own judgment and mine, too.

Q. You would talk over the matter and give them your judgment about how much there was? A. Yes, sir.

Q. Now, you told us on direct examination this morn-

(Testimony of Albert Jemison.)

ing that in talking with your sister, Mrs. Dildine, about this, you said that you could get her a good claim if she desired to locate? A. Yes, sir.

Q. What did you mean by saying that you could get a good claim for her?

A. I meant a timber claim that had maybe a few hundred thousand feet more timber on it than others would have.

Q. That is, seeing that she was your sister, you wanted to get for her a particularly good claim?

A. Yes, sir.

Q. And what effort did you make in that regard with reference to your other brothers and sisters, Mr. Jemison?

A. Well, it was all about the same.

Q. You tried to get the best claim you could for them, I suppose? A. Yes, sir.

Q. And I also understand you, that you did not go about the country seeking to hunt up people to locate these claims, but that they came to you with that end in view? A. Yes, sir.

Q. Did you as a matter of fact go about anywhere making any effort to get people to make these locations?

A. No, sir.

Q. The only one that you told us about having yourself made any advances to, or talking with, was your sister, Mrs. Dildine? A. Yes, sir.

Q. You first broached the subject to her, as I understand you?

(Testimony of Albert Jem'son.)

A. Well, no; as I recall that, as I said before, she spoke to me once, if I could get her a good claim she would take one, and I told her I would.

Q. So that, even with reference to your sister, it came from her in the first instance and not from you, the idea of getting a claim? A. Yes, sir.

Q. Now, do you know about Mr. Cobban buying any other lands in that neighborhood besides these that you have been inquired about here? A. Yes, sir.

Q. What other lands did he buy that you know of?

A. Well, I just couldn't say; he bought timber deeded lands in Camas prairie and on up the river; I believe he bought some from a man by the name of Pierce and others. I know there was quite a number of thousand that he bought, because we estimated it; we went over it.

Q. Then, you know that Mr. Cobban was buying timber land from anybody in that vicinity who had acquired title to lands of that kind, and were desirous of selling them? A. Yes, sir.

Q. These claims that you speak of, deeded claims that he had bought, were claims to which title had been acquired some time theretofore? A. Yes, sir.

Q. Not immediately acquired, but some time back?

A. Yes, sir.

Q. Do you know of his acquiring any other lands in any other way?

A. I think I do by scrip; yes, sir.

Q. Acquiring lands by scrip? A. Yes, sir.

(Testimony of Albert Jemison.)

Q. So that it was generally understood in that neighborhood that anybody that had timber lands to sell could sell them to Mr. Cobban?

A. Yes, sir; I believe it was.

Q. That he was in the market for the purpose of buying timber lands? A. Yes, sir.

Q. That was generally understood through that country? A. Yes, sir.

Q. Now, you think that the Eddy boys, who lived up in the Blackfoot, were worth possibly from five to six thousand dollars apiece?

A. They lived in the Bitterroot.

Q. In the Bitterroot, I mean.

A. Why, that would be to the best of my knowledge, as I said before; yes, sir.

Q. Of course, you don't pretend to know accurately what they are worth or what they have or haven't?

A. No, sir.

Q. But, anyway, they have taken up claims in the Bitterroot Valley?

A. Yes, sir; they both own land there in the Bitterroot valley.

Q. Acquired under the laws of the United States, homestead or desert land or something of that kind?

Mr. ZEVELY.—You know that of your own knowledge?

The WITNESS.—You mean that they have lands there?

(Testimony of Albert Jemison.)

Q. Yes. A. Yes, sir.

Mr. ZEVELY.—That was not the question.

Mr. WALSH.—I will have to again object to being interrupted.

The EXAMINER.—Read the question.

Q. (Question read.)

A. It would either be homestead or pre-emption.

Q. All of these relatives of yours up in the Bitterroot valley are reasonably well-to-do ranchmen and farmers, are they not? A. Yes, sir.

Q. None of them exactly poverty-stricken?

A. No, sir.

Q. Now, in speaking about the location made by Thomas Roll, you told us that you told him how much timber there was on the claim. Do you recollect that particular instance with reference to this particular gentleman, Mr. Roll?

A. How much I told him there was on the claim?

Q. No, but you told us that you told him how much timber there was on the claim? A. Yes, sir.

Q. As I understood you, you usually talked over with each of these claimants how much timber there was on the claim, and you kind of estimated how much there was and how much it was worth?

A. I told every one of them, but my memory—I think I remember Mr. Roll's amount that I told him I thought was on his claim.

(Testimony of Albert Jemison.)

Q. I want to know how it is that you happen to remember the conversation with Mr. Roll concerning that matter as separate from the remainder of them?

A. Well, it is just certain points that my memory comes to me better than others.

Q. Mr. Jemison, I want to know if there was anything particular about the conversation that you had with Mr. Roll that enables you to recall that?

A. Why, yes. I told him that my judgment of that timber on that piece of land was a million feet, ten hundred thousand.

Q. Did he agree with you about it?

A. He thought there was more on it.

Q. In his judgment there was more of it?

A. Yes, sir.

Mr. ZEVELY.—I object to that as being hearsay, and also as immaterial and irrelevant.

Q. So that Mr. Roll was reasonably well satisfied with his claim?

Mr. ZEVELY.—The same objection.

A. Yes, sir; he was.

Q. You told us also that you had a similar conversation with Abraham Jemison; that you talked to him about the amount of timber on his land at the time that you were locating him, as I understood you?

A. Yes, sir.

Q. Do you remember the conversation with him also

(Testimony of Albert Jemison.)

in the same way that you do with Mr. Roll, or do you remember only generally about it?

A. No, I couldn't say for certain about that.

Q. Now, most of these gentlemen up in the Bitterroot have had more or less experience in the woods themselves, haven't they?

A. Well, they have lived here in Montana amongst the woods the last ten or twelve years, most all of them.

Q. Right in the neighborhood where lumbering has been carried on? A. Yes, sir.

Q. Most of these gentlemen have some ability themselves in estimating the amount of timber there was upon lands, had they not? A. Yes, sir.

Q. They could tell land that carried a considerable amount of timber as distinguished from land that was not such good timber land? A. Yes, sir.

Q. In other words, they had some skill in this matter as well as yourself? A. Yes, sir.

Q. And were there any of these gentlemen that you located upon these lands or assisted in locating, that you know had no experience whatever in timber lands or in the woods? A. I just didn't understand.

Q. I ask you if there were any of those that you located on these lands, any of the gent'emen that had no experience at all in the woods or in the timber?

A. Well, I couldn't say about that.

Q. So far as you know, they were all more or less experienced as woodsmen?

(Testimony of Albert Jemison.)

A. So far as I know I would judge them to know something about timber.

Q. I was speaking a moment ago about your relatives, and about their worldly possessions. Your brother in law, Mr. Dildine, is a gentleman that is reasonably well to do, is he not?

A. Yes, sir; he is a contractor in Missoula.

Q. Worth about how much, would you think?

A. About fifteen thousand.

Q. What does his property consist of?

A. Town lots and property and he has a home ranch near town, a little, small farm—that is, what I mean, a city ten-acre lot or something like that; he has property in south Missoula.

Q. Now, about this letter that your mother wrote; did you see the letter? A. No, sir.

Q. You know what was in it, then, only by what someone told you, as I understand? A. That is all.

Q. Now, you told us with reference to Calvin Yarger, that he asked you if he sold the claim how much he could get out of it, and you told him that he could get one hundred dollars over and above his expenses; that is correct, is it? A. Yes, sir.

Q. I would like to ask you whether Mr. Yarger agreed with you that he would sell his claim for one hundred dollars over and above expenses?

A. He didn't say.

Q. Didn't say whether he would or would not?

A. No, sir.

(Testimony of Albert Jemison.)

Q. He just simply asked you if he sold the claim how much he could get out of it, and you told him he could get one hundred dollars over and above expenses?

A. Yes, sir.

Q. Now you told us about the conversation with Mr. Hendrix, which as I understand you, was to the effect that he would pay you ten dollars whenever he sold his land?

A. Yes, sir.

Q. And you didn't make any agreement with Mr. Hendrix or Mr. Hendrix didn't make any agreement with you that he would sell the land to any particular person, did he? A. No, sir.

Q. It was simply that he would pay you the ten dollars after he had sold the land? A. Yes, sir.

Q. Now you told us also that you talked with Robert Starkie about how much timber there was on his claim. Do you remember that matter particularly?

A. I couldn't say about that.

Q. You remember that only in a general way, the same as the others? A. Yes, sir, only in a general way.

Q. But the particular conversation you don't remember? A. No, sir, I don't.

Q. Now, did any of these gentlemen think there was less timber on the land than you had estimated at any time?

A. No, sir, they all claimed that there was more timber than what I said there was on the land.

Q. Your estimate usually fell short of theirs?

A. Yes, sir.

(Testimony of Albert Jemison.)

Q. Now, you also told us about some conversation that you had with Albert Ehle concerning the disposition of his claim. Where did you have that conversation with him?

A. Albert Ehle—I think it was on the land; it was either—

Q. If you remember the conversation, you certainly ought to remember where it took place, Mr. Jemison.

A. Well, in my other—(hesitating).

The EXAMINER.—Do you understand the question?

A. Yes, sir, I understand the question, but I either had the conversation with him at camp or on the land, I wouldn't say which now.

Q. You don't recall distinctly?

A. I seem to remember that, too, but I can't say.

Q. Who opened up the conversation concerning that subject?

A. I couldn't say that, either, who did start the conversation.

Q. Do you mean you couldn't tell us what he said nor what it is you said?

A. Yes, I can tell you what he said. We went on to talk about the— I think what he was to get out of the claim and so on, something like that.

Q. Now, what was it he said?

A. Well, I think he asked me how much there would be in the claim if he took it and I told him one hundred dollars clear of all expenses.

(Testimony of Albert Jemison.)

Q. Now, do you remember the particular language that was used, or are you endeavoring to give us the substance of what was said?

A. No, I don't believe I can.

Q. You don't pretend to give us the exact language?

A. No, sir, I can't.

Q. Only in general the substance of what was said?

A. Yes, sir.

Q. Now, he asked you then, as I understand, in substance, how much he could get for the claim after he got it? A. Yes, sir.

Q. And you told him that he could get one hundred dollars over and above expenses? A. Yes, sir.

Q. If he wanted to sell. Is that correct?

A. Yes, sir.

Q. Now, counsel asked you in the course of the examination if he asked you how much he would get for his claim. Are you able to say that he asked you how much he would get for his claim, or how much he could get for his; are you able to say which word he used?

A. No, I don't believe I am.

Q. You could not say whether it was one or the other? A. No, sir.

Q. Now, do you remember the time that the Ehle entry was made?

A. No, sir, I don't remember exactly the date.

Q. Were you working directly for Mr. Cobban at that time when the Ehle entry was made, or were you working for Mr. Griswold?

(Testimony of Albert Jemison.)

A. I couldn't say that, either.

Q. His sworn statement appears to be made September 18th, 1899. If you refresh your recollection from that, can you tell? A. No, I don't believe I could

Q. But, anyway, Mr. Jemison, I understand you that you made no contract or agreement with Mr. Ehle, by which Mr Ehle undertook that he would sell this land to Mr. Cobban or to anyone else?

A. I didn't make no contract with him, no, sir.

Q. You know as a matter of fact that Mr. Ehle endeavored subsequent to his entry to sell his land to the Blackfoot Milling Company, don't you?

A. I don't remember; I heard something about it.

Mr. ZEVELY.—No, not what you heard.

Mr. WALSH.—If the Court please, one moment. I am going to ask after this that every time that these gentlemen interject anything in the course of this examination, that it be put down.

The EXAMINER.—The answer will be put just as the witness wishes to put it, and then counsel can then by motion or otherwise make their objection as a matter of record.

Mr. ZEVELY.—We move to strike the answer from the record, as being hearsay, and not of his own personal knowledge.

Q. When did you commence the work of estimating the amount of timber for Mr. Cobban?

(Testimony of Albert Jemison.)

A. Some time near September, I couldn't say the date.

Q. September, 1899? A. Yes, sir.

Q. Was it before or after you quit the work of locating people upon these lands? A. It was after.

Q. After you got all through with the work of locating, then you went to estimating the amount of timber upon the land?

A. Well, there was a few located after, just a few.

Q. Can you tell us any one?

A. No, I don't remember the names of them.

Q. You were locating people quite extensively yet in the month of October, 1899, weren't you?

A. Them is the ones I mean.

Q. Have you any data of any character by which you can fix the time when you first began the work of estimating the amount of timber there was on these lands?

A. No, sir; I don't have any date; I know pretty near where those people's claims is, right to the section almost.

Q. That you located when?

A. That was located in October.

Q. After you began estimating? A. Yes, sir.

Q. There were only a few, however?

A. Yes, sir.